

Public Chapter 551

HOUSE BILL NO. 1810

By Representatives Halteman Harwell, Walley, McDaniel, Stamps, Davis

Substituted for: Senate Bill No. 1707

By Senators Person, McNally, Atchley, Elsea, Jordan, Miller, Ramsey, Williams, Carter, Crowe, Koella, Fowler

AN ACT to amend Tennessee Code Annotated, Title 4; Title 7; Title 8; Title 16; Title 17; Title 18; Title 19; Title 20; Title 21; Title 22; Title 23; Title 24; Title 25; Title 26; Title 27; Title 28; Title 29; Title 34; Title 36; Title 37; Title 38; Title 39; Title 45; Title 47; Title 48; Title 49; Title 50; Title 55; Title 56; Title 57; Title 62; Title 63; Title 65; Title 66; Title 67; Title 68; Title 70 and Title 71, relative to the support of children.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 5 is amended by adding the following as a new Part 11:

36-5-1101. Definitions.-- The following terms have the following meanings, unless the context requires otherwise:

(1) "Business day" means a day on which State offices are open for regular business.

(2) "Commissioner" means the Commissioner of Human Services or the commissioner's duly authorized representative.

(3) "Department" means the Department of Human Services or its contractor or other designee.

(4) "Directory of new hires" means an automated directory of information, supplied by employers on each newly hired or re-hired employee, which is maintained by the Department of Human Services.

(5) "Employee" means an individual who is an employee within the meaning of Chapter 24 of the Internal Revenue Code of 1986, but does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of that agency has determined that reporting pursuant to the requirements of this part with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(6) "Employer" has the meaning given such term in Section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

(7) "Labor organization" has the meaning given such term in Section 2(5) of the National Labor Relations Act, and includes any entity (also known as a "hiring hall") which is used by the organization and an employer to carry out requirements of Section 8(f)(3) of such Act of an agreement between the organization and the employer.

(8) "Title IV-D Agency" means the agency designated pursuant to Title IV, Part D of the Social Security Act to provide services to children and families to establish and enforce child support obligations. In Tennessee, the Department of Human Services is the Title IV-D agency.

36-5-1102. Reports of new employees.-- Effective October 1, 1997, each employer shall furnish to the department a report that contains the name, address, and social security number of each newly hired employee, and the name, address, and identifying number assigned under Section 6109 of the Internal Revenue Code of 1986 of the employer.

36-5-1103. Reports for employers with employees in two or more states.-- An employer that has employees who are employed in two (2) or more states and which transmits reports magnetically or electronically may comply with § 36-5-1102 by designating one (1) state in which such employer has employees to which the employer will transmit the report described in 36-5-1102 and by transmitting such report to such state. Any employer which transmits reports pursuant to this Section shall notify the Secretary of the United States Department of Health and Human Services in writing as to which state such employer designates for the purpose of sending reports under this section.

36-5-1104. Time frames for reports by employers.-- The report provided by § 36-5-1102 shall be made not later than twenty (20) business days after the date the employer hires the employee, or, in the case of an employer transmitting reports magnetically or electronically, by two (2) monthly transmissions (if necessary) not less than twelve (12) nor more than sixteen (16) days apart.

36-5-1105. Reports on W-4 Forms.-- Each report required by 36-5-1102 shall be made on a W-4 form, or at the option of the employer, an equivalent form, containing the same data as required on the W-4 form. The report may be transmitted to the department by first class mail, magnetically or electronically in a format approved by the department.

36-5-1106. Use of information by department.-- (a) The department shall use the information received pursuant to 36-5-1102 to locate individuals for purposes of establishing paternity and establishing, modifying and enforcing child support obligations and may disclose such information to any agent of the department that is under contract with the department to carry out such purposes.

(b) The Commissioner of Human Services shall make available information collected pursuant to this part to state or local agencies or their contractors, or agents in this State or their counterparts in any other State or territory who determine financial or medical assistance as permitted under Section 1137(b) of the Social Security Act, as it may be amended; to any State program operated under a plan approved under Titles I, X, and XIV of the Social Security Act; any agencies administering the worker's compensation program of a state or territory; and to the Title IV-D agency in this State, its local offices and its contractors, whether public or private, and the Title IV-D agency's

counterparts in other states or territories, their local offices and their contractors, whether public or private, for use in locating absent parents, and for use in establishing, enforcing and modifying child support orders, and to the Federal government as required by statute or regulation. The department may charge a fee to cover the costs of the provision of such information to any other state or local government entities which may be conducting eligibility determinations or who are conducting programs under this subsection.

(c) No further disclosures shall be made except as authorized pursuant to this section or Section 10 of this act. Disclosure in violation of this section shall be a Class C misdemeanor.

36-5-1107. Failure to make necessary reports; penalties.-- (a) If, after prior notification by the Department of Human Services of failure to make the necessary reports required by this part, any employer fails or refuses to comply with the requirements of this part, the employer shall be subject to a civil penalty of \$20.00 for each employee who is not reported.

(b) Any employer and employee who conspire not to provide the report required by this part or who conspire to provide a false or incomplete report shall each be subject to a civil penalty of \$400.00.

(c) Such penalties shall be assessed by the Commissioner of Human Services after written notice which provides fifteen (15) days from the mailing date of such notice to file a written request for appeal.

(d) If an appeal is timely filed with the department, the employer or employee shall be entitled to an administrative hearing before the department on the issue of the assessment pursuant to the provisions of Title 4, Chapter 3 relative to contested case hearings.

(e) Failure to timely appeal the assessment of the civil penalty shall be final and conclusive of the correctness of the assessment.

(f) Any amount found owing shall be due and payable not later than fifteen (15) days after the mailing date of the determination.

(g)(1) Failure to pay an assessment shall result in a lien against the real or personal property of the employer or the employee in favor of the Department of Human Services and shall be enforced by original attachment issued by the court in the county where the employer is located or where the employee resides by any court having jurisdiction of the monetary amounts assessed.

(2) The employer or employee shall be liable for all court costs and litigation taxes of the proceedings and shall be liable to the department for the cost of any private, contract or government attorney representing the State and for the time of any of its Title IV-D or contractor staff utilized in litigating the assessment.

(h) Any appeal of the action of the Commissioner pursuant to this section shall be made in conformity with § 4-5-322.

36-5-1108. Rulemaking authority.-- The Department of Human Services shall have authority to promulgate rules pursuant to the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5 which it determines are necessary for the implementation of this part, and it is specifically authorized to utilize public

necessity rules to implement this act upon the effective date of this part subject to prior approval of the public necessity rules by the Attorney General and Reporter.

SECTION 2. Tennessee Code Annotated, Title 36, Chapter 5 is amended by adding the following new Parts 20-29:

#### Part 20-Short Title

Section 36-5-2001. Parts 20-29 of the chapter shall be known and may be cited as "The Uniform Interstate Family Support Act".

#### Part 21--General Provisions

Section 36-5-2101. Definitions

Section 36-5-2102. Tribunal of State

Section 36-5-2103. Remedies Cumulative

#### Part 22--Jurisdiction

##### Subpart A. Extended Personal Jurisdiction

Section 36-5-2201. Bases for Jurisdiction Over Nonresident

Section 36-5-2202. Procedure When Exercising Jurisdiction Over Nonresident

##### Subpart B. Proceedings Involving Two or More States

Section 36-5-2203. Initiating and Responding Tribunal of State

Section 36-5-2204. Simultaneous Proceedings in Another State

Section 36-5-2205. Continuing, Exclusive Jurisdiction

Section 36-5-2206. Enforcement and Modification of Support Order by Tribunal Having Continuing Jurisdiction

##### Subpart C. Reconciliation of Multiple Orders

Section 36-5-2207. Recognition of Controlling Child-Support Order

Section 36-5-2208. Multiple Child-Support Orders for Two or More Obligees

Section 36-5-2209. Credit for Payments

#### Part 23--Civil Provisions Of General Application

Section 36-5-2301. Proceedings Under Parts 20-29

Section 36-5-2302. Action By Minor Parent

Section 36-5-2303. Application of Law of State

Section 36-5-2304.	Duties of Initiating Tribunal
Section 36-5-2305.	Duties and Powers of Responding Tribunal
Section 36-5-2306.	Inappropriate Tribunal
Section 36-5-2307.	Duties of Support Enforcement Agency
Section 36-5-2308.	Duty of Attorney General
Section 36-5-2309.	Private Counsel
Section 36-5-2310.	Duties of Department of Human Services
Section 36-5-2311.	Pleadings and Accompanying Documents
Section 36-5-2312.	Nondisclosure of Information in Exceptional Circumstances
Section 36-5-2313.	Costs and Fees
Section 36-5-2314.	Limited Immunity of Petitioner
Section 36-5-2315.	Nonparentage as Defense
Section 36-5-2316.	Special Rules of Evidence and Procedure
Section 36-5-2317.	Communications Between Tribunals
Section 36-5-2318.	Assistance with Discovery
Section 36-5-2319.	Receipt and Disbursement of Payments

#### Part 24--Establishment Of Support Order

Section 36-5-2401.	Petition To Establish Support Order
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#### Part 25-- Enforcement Of Order Of Another State Without Registration

Section 36-5-2501.	Employer's Receipt of Income-Withholding Order of Another State
Section 36-5-2502.	Employer's Compliance with Income-Withholding Order of Another State
Section 36-5-2503.	Employer's Compliance with Multiple Income-Withholding Orders
Section 36-5-2504.	Immunity from Civil Liability
Section 36-5-2505.	Penalties for Noncompliance
Section 36-5-2506.	Contest by Obligor
Section 36-5-2507.	Administrative Enforcement of Orders

Part 26--Enforcement And Modification Of Support Order After  
Registration

Subpart A. Registration and Enforcement of Support Order

- Section 36-5-2601. Registration of Order for Enforcement
- Section 36-5-2602. Procedure To Register Order for Enforcement
- Section 36-5-2603. Effect of Registration for Enforcement
- Section 36-5-2604. Choice of Law

Subpart B. Contest of Validity or Enforcement

- Section 36-5-2605. Notice of Registration of Order
- Section 36-5-2606. Procedure To Contest Validity or Enforcement of  
Registered Order
- Section 36-5-2607. Contest of Registration or Enforcement
- Section 36-5-2608. Confirmed Order

Subpart C. Registration and Modification of Child-Support Order

- Section 36-5-2609. Procedure To Register Child-Support Order of  
Another State for Modification
- Section 36-5-2610. Effect of Registration for Modification
- Section 36-5-2611. Modification of Child-Support Order of Another  
State
- Section 36-5-2612. Recognition of Order Modified in Another State
- Section 36-5-2613. Jurisdiction To Enforce or Modify Child-Support  
Order of Another State When Individual Parties Reside in this State
- Section 36-5-2614. Notice to Issuing Tribunal of Modification

Part 27--Determination Of Parentage

- Section 36-5-2701. Proceeding to Determine Parentage

Part 28--Interstate Rendition

- Section 36-5-2801. Grounds for Rendition
- Section 36-5-2802. Conditions of Rendition

Part 29--Miscellaneous Provisions

- Section 36-5-2901. Uniformity of Application and Construction
- Section 36-5-2902. Severability Clause

## PART 21

### GENERAL PROVISIONS

#### SECTION 36-5-2101. DEFINITIONS.

In Parts 20-29:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child-support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the State in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this State.

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other payor of income or debtor, as defined by §36-5-501 et seq., to withhold support from the income of the obligor.

(7) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under Parts 20-29 or a law or procedure substantially similar to Parts 20-29, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the State in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

(i) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(ii) a state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(iii) an individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:

(i) who owes or is alleged to owe a duty of support;

(ii) who is alleged but has not been adjudicated to be a parent of a child; or

(iii) who is liable under a support order.

(14) "Register" means to file a support order or judgment determining parentage in the trial court in the county where the respondent resides or, in Title IV-D child support cases, in the central registry of the Department of Human Services.

(15) "Registering tribunal" means a tribunal in which a support order is registered.

(16) "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under Parts 20-29 or a law or procedure substantially similar to Parts 20-29, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(17) "Responding tribunal" means the authorized tribunal in a responding state.

(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(19) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes:

(i) an Indian tribe; and

(ii) a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under Parts 20-29, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.



(20) "Support enforcement agency" means a public official or agency authorized to seek:

(i) enforcement of support orders or laws relating to the duty of support;

(ii) establishment or modification of child support;

(iii) determination of parentage; or

(iv) to locate obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

#### SECTION 36-5-2102. TRIBUNALS OF STATE.

The Chancery, Circuit, and Juvenile Courts and any courts exercising domestic relations jurisdiction under any enactment of the General Assembly are the tribunals of this State.

#### SECTION 36-5-2103. REMEDIES CUMULATIVE.

Remedies provided by Parts 20-29 are cumulative and do not affect the availability of remedies under other law.

### PART 22

### JURISDICTION

#### SUBPART A . EXTENDED PERSONAL JURISDICTION

#### SECTION 36-5-2201. BASES FOR JURISDICTION OVER NONRESIDENT.

In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) the individual is personally served with notice within this State;

(2) the individual submits to the jurisdiction of this State by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this State;

(4) the individual resided in this State and provided prenatal expenses or support for the child;

(5) the child resides in this State as a result of the acts or directives of the individual;

(6) the individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse;

(7) the individual asserted parentage in the putative father registry maintained in this State by the Tennessee Department of Children's Services; or

(8) there is any other basis consistent with the constitutions of this State and the United States for the exercise of personal jurisdiction.

#### SECTION 36-5-2202. PROCEDURE WHEN EXERCISING JURISDICTION OVER NONRESIDENT.

A tribunal of this State exercising personal jurisdiction over a nonresident under Section 36-5-2201 may apply Section 36-5-2316 (Special Rules of Evidence and Procedure) to receive evidence from another state, and Section 36-5-2318 (Assistance with Discovery) to obtain discovery through a tribunal of another state. In all other respects, Parts 23 through 27 do not apply and the tribunal shall apply the procedural and substantive law of this State, including the rules on choice of law other than those established by Parts 20-29.

#### SUBPART B . PROCEEDINGS INVOLVING TWO OR MORE STATES

##### SECTION 36-5-2203. INITIATING AND RESPONDING TRIBUNAL OF STATE.

Under Parts 20-29, a tribunal of this State may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

##### SECTION 36-5-2204. SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE.

(a) A tribunal of this State may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state only if:

(1) the petition or comparable pleading in this State is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state; and

(3) if relevant, this State is the home State of the child.

(b) A tribunal of this State may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(1) the petition or comparable pleading in the other state is filed before the expiration of the time allowed in this State for filing a responsive pleading challenging the exercise of jurisdiction by this State;

(2) the contesting party timely challenges the exercise of jurisdiction in this State; and

(3) if relevant, the other state is the home State of the child.

#### SECTION 36-5-2205. CONTINUING, EXCLUSIVE JURISDICTION.

(a) A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a child-support order:

(1) as long as this State remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) until all of the parties who are individuals have filed written consents with the tribunal of this State for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this State issuing a child-support order consistent with the law of this State may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to Parts 20-29 or a law substantially similar to Parts 20-29.

(c) If a child-support order of this State is modified by a tribunal of another state pursuant to Parts 20-29 or a law substantially similar to Parts 20-29 a tribunal of this State loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this State, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this State shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child-support order pursuant to Parts 20-29 or a law substantially similar to Parts 20-29.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a spousal-support order throughout the existence of the support obligation. A tribunal of this State may

not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

SECTION 36-5-2206. ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER BY TRIBUNAL HAVING CONTINUING JURISDICTION.

(a) A tribunal of this State may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this State having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply Section 36-5-2316 (Special Rules of Evidence and Procedure) to receive evidence from another state and Section 36-5-2318 (Assistance with Discovery) to obtain discovery through a tribunal of another state.

(c) A tribunal of this State which lacks continuing, exclusive jurisdiction over a spousal-support order may not serve as a responding tribunal to modify a spousal support-order of another state.

SUBPART C . RECONCILIATION OF MULTIPLE ORDERS

SECTION 36-5-2207. RECOGNITION OF CONTROLLING CHILD-SUPPORT ORDER.

(a) If a proceeding is brought under Parts 20-29 and only one tribunal has issued a child-support order, the order of that tribunal controls and must be so recognized.

(b) If a proceeding is brought under Parts 20-29 and two or more child-support orders have been issued by tribunals of this State or another state with regard to the same obligor and child, a tribunal of this State shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under Parts 20-29, the order of that tribunal controls and must be so recognized.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under Parts 20-29, an order issued by a tribunal in the current home State of the child controls and must be so recognized, but if an order has not been issued in the current home State of the child, the order most recently issued controls and must be so recognized.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under Parts 20-29, the tribunal of this State having jurisdiction over the parties shall issue a child-support order, which controls and must be so recognized.

(c) If two or more child-support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this State, a party may request a tribunal of this State to determine which order controls and must be so recognized under subsection (b). The request must be accompanied by a certified copy of every support order in effect. The requesting party shall

give notice of the request to each party whose rights may be affected by the determination.

(d) The tribunal that issued the controlling order under subsection (a), (b), or (c) is the tribunal that has continuing, exclusive jurisdiction under Section 36-5-2205.

(e) A tribunal of this State which determines by order the identity of the controlling order under subsection (b)(1) or (2) or which issues a new controlling order under subsection (b)(3) shall state in that order the basis upon which the tribunal made its determination.

(f) Within thirty (30) days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

#### SECTION 36-5-2208. MULTIPLE CHILD-SUPPORT ORDERS FOR TWO OR MORE OBLIGEES.

In responding to multiple registrations or petitions for enforcement of two or more child-support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this State shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this State.

#### SECTION 36-5-2209. CREDIT FOR PAYMENTS.

Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this State.

### PART 23

#### CIVIL PROVISIONS OF GENERAL APPLICATION

#### SECTION 36-5-2301. PROCEEDINGS UNDER PARTS 20-29.

(a) Except as otherwise provided in Parts 20-29 this part applies to all proceedings under Parts 20-29.

(b) Parts 20-29 provide for the following proceedings:

(1) establishment of an order for spousal support or child support pursuant to Part 24;

(2) enforcement of a support order and income-withholding order of another state without registration pursuant to Part 25;

(3) registration of an order for spousal support or child support of another state for enforcement pursuant to Part 26;

(4) modification of an order for child support or spousal support issued by a tribunal of this State pursuant to Part 22, Subpart B;

(5) registration of an order for child support of another state for modification pursuant to Part 26;

(6) determination of parentage pursuant to Part 27; and

(7) assertion of jurisdiction over nonresidents pursuant to Part 22, subpart A.

(c) An individual petitioner or a support enforcement agency may commence a proceeding authorized under Parts 20-29 by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

#### SECTION 36-5-2302. ACTION BY MINOR PARENT.

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

#### SECTION 36-5-2303. APPLICATION OF LAW OF THIS STATE.

Except as otherwise provided by Parts 20-29, a responding tribunal of this State:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this State and may exercise all powers and provide all remedies available in those proceedings; and

(2) shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this State.

#### SECTION 36-5-2304. DUTIES OF INITIATING TRIBUNAL.

(a) Upon the filing of a petition authorized by Parts 20-29, an initiating tribunal of this State shall forward three copies of the petition and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the State information agency of the responding State with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If a responding State has not enacted this Act or a law or procedure substantially similar to this Act, a tribunal of this State may issue a certificate or other document and make findings required by the law of the responding State. If the responding State is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding State.

SECTION 36-5-2305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.

(a) When a responding tribunal of this State receives a petition or comparable pleading from an initiating tribunal or directly pursuant to Section 36-5-2301(c) (Proceedings Under Parts 20-29), it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(b) A responding tribunal of this State, to the extent otherwise authorized by law, may do one or more of the following:

(1) issue or enforce a support order, modify a child-support order, or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue an attachment pro corpus or capias for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the attachment pro corpus or capias in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this State shall include in a support order issued under Parts 20-29, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this State may not condition the payment of a support order issued under Parts 20-29 upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this State issues an order under Parts 20-29, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

#### SECTION 36-5-2306. INAPPROPRIATE TRIBUNAL.

If a petition or comparable pleading is received by an inappropriate tribunal of this State, it shall forward the pleading and accompanying documents to an appropriate tribunal in this State or another state and notify the petitioner where and when the pleading was sent.

#### SECTION 36-5-2307. DUTIES OF SUPPORT ENFORCEMENT AGENCY.

(a) A support enforcement agency of this State, upon request, shall provide services to a petitioner in a proceeding under Parts 20-29.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal in this State or another state to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within five (5) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(5) within five (5) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) Parts 20-29 do not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

#### SECTION 36-5-2308. DUTY OF ATTORNEY GENERAL OF THE STATE.

If the Attorney General of the State determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the Attorney General may order the agency to perform its duties under Parts 20-29 or may provide those services directly to the individual.

#### SECTION 36-5-2309. PRIVATE COUNSEL.



An individual may employ private counsel to represent the individual in proceedings authorized by Parts 20-29.

SECTION 36-5-2310. DUTIES OF DEPARTMENT OF HUMAN SERVICES.

(a) The Department of Human Services is the State Information Agency under Parts 20-29.

(b) The State Information Agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this State which have jurisdiction under Parts 20-29 and any support enforcement agencies in this State and transmit a copy to the State Information Agency of every other State;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this State in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under Parts 20-29 received from an initiating tribunal or the State Information Agency of the initiating State; and

(4) obtain information concerning the location of the obligor and the obligor's property within this State not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

SECTION 36-5-2311. PLEADINGS AND ACCOMPANYING DOCUMENTS.

(a) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under Parts 20-29 must verify the petition. Unless otherwise ordered under Section 36-5-2312 (Nondisclosure of Information in Exceptional Circumstances), the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

SECTION 36-5-2312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES.

Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under Parts 20-29.

#### SECTION 36-5-2313. COSTS AND FEES.

(a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under Part 26 (Enforcement and Modification of Support Order After Registration), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

#### SECTION 36-5-2314. LIMITED IMMUNITY OF PETITIONER.

(a) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this State to participate in a proceeding under Parts 20-29.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under Parts 20-29 committed by a party while present in this State to participate in the proceeding.

#### SECTION 36-5-2315. NONPARENTAGE AS DEFENSE.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under Parts 20-29.

#### SECTION 36-5-2316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.

(a) The physical presence of the petitioner in a responding tribunal of this State is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of

them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child-support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten (10) days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this State by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under Parts 20-29, a tribunal of this State may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this State shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under Parts 20-29.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under Parts 20-29.

#### SECTION 36-5-2317. COMMUNICATIONS BETWEEN TRIBUNALS.

A tribunal of this State may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this State may furnish similar information by similar means to a tribunal of another state.

#### SECTION 36-5-2318. ASSISTANCE WITH DISCOVERY.

A tribunal of this State may:

(1) request a tribunal of another state to assist in obtaining discovery; and

(2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

#### SECTION 36-5-2319. RECEIPT AND DISBURSEMENT OF PAYMENTS.

A support enforcement agency or tribunal of this State shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

## PART 24

### ESTABLISHMENT OF SUPPORT ORDER

#### SECTION 36-5-2401. PETITION TO ESTABLISH SUPPORT ORDER.

(a) If a support order entitled to recognition under Parts 20-29 has not been issued, a responding tribunal of this State may issue a support order if:

(1) the individual seeking the order resides in another state; or

(2) the support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child-support order if:

(1) the respondent has signed a verified statement acknowledging parentage;

(2) the respondent has been determined by or pursuant to law to be the parent; or

(3) there is other clear and convincing evidence that the respondent is the child's parent.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 36-5-2305 (Duties and Powers of Responding Tribunal).

## PART 25

### ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION

#### SECTION 36-5-2501. EMPLOYER'S RECEIPT OF INCOME-WITHHOLDING ORDER OF ANOTHER STATE.

An income-withholding order issued in another state may be sent to the person or entity defined as the obligor's employer under § 36-5-501 et seq. without first filing a petition or comparable pleading or registering the order with a tribunal of this State.

#### SECTION 36-5-2502. EMPLOYER'S COMPLIANCE WITH INCOME-WITHHOLDING ORDER OF ANOTHER STATE.

(a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this State.

(c) Except as otherwise provided in subsection (d) and Section 36-5-2503, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(1) the duration and amount of periodic payments of current child-support, stated as a sum certain;

(2) the person or agency designated to receive payments and the address to which the payments are to be forwarded;

(3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the State of the obligor's principal place of employment for withholding from income with respect to:

(1) the employer's fee for processing an income-withholding order;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) the times within which the employer must implement the withholding order and forward the child support payment.

#### SECTION 36-5-2503. COMPLIANCE WITH MULTIPLE INCOME-WITHOLDING ORDERS

If an obligor's employer receives multiple income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the State of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

#### SECTION 36-5-2504. IMMUNITY FROM CIVIL LIABILITY.

An employer who complies with an income-withholding order issued in another state in accordance with this part is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

#### SECTION 36-5-2505. PENALTIES FOR NONCOMPLIANCE.

An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this State.

#### SECTION 36-5-2506. CONTEST BY OBLIGOR.

(a) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this State in the same manner as if the order had been issued by a tribunal of this State. Section 36-5-2604 (Choice of Law) applies to the contest.

(b) The obligor shall give notice of the contest to:

(1) a support enforcement agency providing services to the obligee;

(2) each employer that has directly received an income-withholding order; and

(3) the person or agency designated to receive payments in the income-withholding order or if no person or agency is designated, to the obligee.

#### SECTION 36-5-2507. ADMINISTRATIVE ENFORCEMENT OF ORDERS.

(a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this State.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this State to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to Parts 20-29.

### PART 26

#### ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER AFTER REGISTRATION

##### SUBPART A . REGISTRATION AND ENFORCEMENT OF SUPPORT

#### SECTION 36-5-2601. REGISTRATION OF ORDER FOR ENFORCEMENT.

A support order or an income-withholding order issued by a tribunal of another state may be registered in this State for enforcement.

#### SECTION 36-5-2602. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.

(a) A support order or income-withholding order of another state may be registered in this State by sending the following documents and information to the trial court in the county where the respondent resides or, in Title IV-D cases to the central registry of the Department of Human Services, in this State:

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of all orders to be registered, including any modification of an order;

(3) a sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(i) the obligor's address and social security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this State not exempt from execution; and

(5) the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this State may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

#### SECTION 36-5-2603. EFFECT OF REGISTRATION FOR ENFORCEMENT.

(a) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this State.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this State.

(c) Except as otherwise provided in this part, a tribunal of this State shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

#### SECTION 36-5-2604. CHOICE OF LAW.

(a) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(b) In a proceeding for arrearages, the statute of limitation under the laws of this State or of the issuing state, whichever is longer, applies.

## SUBPART B . CONTEST OF VALIDITY OR ENFORCEMENT

### SECTION 36-5-2605. NOTICE OF REGISTRATION OF ORDER.

(a) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within twenty (20) days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearages.

(c) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to §§ 36-5-501 et seq.

### SECTION 36-5-2606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED ORDER.

(a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this State shall request a hearing within twenty (20) days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to Section 36-5-2607 (Contest of Registration or Enforcement).

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.



SECTION 36-5-2607. CONTEST OF REGISTRATION OR ENFORCEMENT.

(a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended, or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this State to the remedy sought;

(6) full or partial payment has been made; or

(7) the statute of limitation under Section 36-5-2604 (Choice of Law) precludes enforcement of some or all of the arrearages.

(b) If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this State.

(c) If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

SECTION 36-5-2608. CONFIRMED ORDER.

Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

SUBPART C . REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER

SECTION 36-5-2609. PROCEDURE TO REGISTER CHILD-SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION.

A party or support enforcement agency seeking to modify, or to modify and enforce, a child-support order issued in another state shall register that order in this State in the same manner provided in Subpart A if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

SECTION 36-5-2610. EFFECT OF REGISTRATION FOR MODIFICATION.

A tribunal of this State may enforce a child-support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this State, but the registered order may be modified only if the requirements of Section 36-5-2611 (Modification of Child-Support Order of Another State) have been met.

**SECTION 36-5-2611. MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER STATE.**

(a) After a child-support order issued in another state has been registered in this State, the responding tribunal of this State may modify that order only if Section 36-5-2613 does not apply and after notice and hearing it finds that:

(1) the following requirements are met:

(i) the child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) a petitioner who is a nonresident of this State seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this State; or

(2) the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this State and all of the parties who are individuals have filed written consents in the issuing tribunal for a tribunal of this State to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under Parts 20-29, the consent otherwise required of an individual residing in this State is not required for the tribunal to assume jurisdiction to modify the child-support order.

(b) Modification of a registered child-support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this State and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this State may not modify any aspect of a child-support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child-support orders for the same obligor and child, the order that controls and must be so recognized under Section 36-5-2207 establishes the aspects of the support order which are nonmodifiable.

(d) On issuance of an order modifying a child-support order issued in another state, a tribunal of this State becomes the tribunal having continuing, exclusive jurisdiction.

**SECTION 36-5-2612. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE.**

A tribunal of this State shall recognize a modification of its earlier child-support order by a tribunal of another state which assumed jurisdiction pursuant

to Parts 20-29 or a law substantially similar to Parts 20-29 and, upon request, except as otherwise provided in Parts 20-29, shall:

(1) enforce the order that was modified only as to amounts accruing before the modification;

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

#### SECTION 36-5-2613. JURISDICTION TO MODIFY CHILD-SUPPORT ORDER OF ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS STATE.

(a) If all of the parties who are individuals reside in this State and the child does not reside in the issuing state, a tribunal of this State has jurisdiction to enforce and to modify the issuing state's child-support order in a proceeding to register that order.

(b) A tribunal of this State exercising jurisdiction under this section shall apply the provisions of Parts 21 and 22, this part, and the procedural and substantive law of this State to the proceeding for enforcement or modification. Parts 23, 24, 25, 27, and 28 do not apply.

#### SECTION 36-5-2614. NOTICE TO ISSUING TRIBUNAL OF MODIFICATION.

Within thirty (30) days after issuance of a modified child-support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

### PART 27

#### DETERMINATION OF PARENTAGE

##### SECTION 36-5-2701. PROCEEDING TO DETERMINE PARENTAGE.

(a) A tribunal of this State may serve as an initiating or responding tribunal in a proceeding brought under Parts 20-29 or a law or procedure substantially similar to Parts 20-29, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this State shall apply the provisions of Title 36, Chapter 2 and the rules of this State on choice of law.

## PART 28

### INTERSTATE RENDITION

#### SECTION 36-5-2801. GROUNDS FOR RENDITION.

(a) For purposes of this part, "Governor" includes an individual performing the functions of Governor or the executive authority of a state covered by Parts 20-29.

(b) The Governor of this State may:

(1) demand that the Governor of another State surrender an individual found in the other State who is charged criminally in this State with having failed to provide for the support of an obligee; or

(2) on the demand by the Governor of another state, surrender an individual found in this State who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with Parts 20-29 applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

#### SECTION 36-5-2802. CONDITIONS OF RENDITION.

(a) Before making demand that the Governor of another State surrender an individual charged criminally in this State with having failed to provide for the support of an obligee, the Governor of this State may require a prosecutor of this State to demonstrate that at least thirty (30) days previously the obligee had initiated proceedings for support pursuant to Parts 20-29 or that the proceeding would be of no avail.

(b) If, under Parts 20-29 or a law substantially similar to Parts 20-29 the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, the Governor of another State makes a demand that the Governor of this State surrender an individual charged criminally in that State with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the Governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the Governor may decline to honor the demand if the individual is complying with the support order.

## PART 29

### MISCELLANEOUS PROVISIONS

SECTION 36-5-2901. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of such act among the States enacting it.

SECTION 36-5-2902. SEVERABILITY CLAUSE.

If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Uniform Interstate Family Support Act which can be given effect without the invalid provision or application, and to that end the provisions of the Uniform Interstate Family Support Act are declared to be severable.

SECTION 3. Tennessee Code Annotated, Title 36, Chapter 5, Part 2 is repealed.

SECTION 4. Tennessee Code Annotated, Title 36, Chapter 5, Part 3 is repealed.

SECTION 5. Tennessee Code Annotated, Title 36, Chapter 5 is amended by adding the following as a new Part 30:

Section 36-5-3001. Purposes and Construction of Part and Limitation of Scope of Part.--(a) The purpose of this part is to provide procedures for the intercounty enforcement and modification of child support and child custody cases and shall be liberally construed to effectuate its purposes.

(b) The provisions for transfer in this part shall not apply to cases in any court regarding petitions for dependency and neglect, delinquency, unruly behavior, terminations of parental rights or adoptions pursuant to Titles 36 and 37.

Section 36-5-3002. Definitions.-- For purposes of this part and unless the context clearly requires otherwise, the following terms shall have the following meanings:

(1) "Child's county"-- The county in which the child who is subject to a support or custody order resides.

(2) "Clerk"-- The clerk of the transferor or transferee court, or the clerk of any court who has been designated by either of those courts to collect support payments for such court.

(3) "Court"-- Except as provided in 36-5-3001(b), a Juvenile, Circuit, or Chancery Court or other court of this State with jurisdiction to enter support or custody orders.

(4) "Department"-- The Department of Human Services or its contractor or designee.

(5) "Filing"-- The initiation of judicial action by the completion of a motion or petition seeking to order the alteration of a legal status through the act of sending or bringing the motion or petition to the office of the clerk of the court.

(6) "Issuing county"-- The county in which a court issues a support or custody order or which renders a judgment determining parentage or to which a support or custody order has been previously transferred.

(7) "Issuing court"-- The court that issues a support or custody order or renders a judgment determining parentage or to which a support or custody order has been previously transferred.

(8) "Obligor's county"-- The county in which the obligor or non-custodial parent resides.

(9) "Request"--A statement of a party to a custody or support order seeking transfer of a case to the county where the requesting party resides.

(10) "Service of Process"-- The act of bringing or sending notice of the filing of a motion or petition to the attention of the opposing party by delivery of a copy of the motion or pleading to the opposing party.

(11) "Transfer"-- The process by which the transferor court, upon request, moves the case to a court where the child resides thereby conferring jurisdiction on the transferee court.

(12) "Transferee court"-- The court which assumes jurisdiction upon a transfer of a case.

(13) "Transferor court"-- The court from which a case is transferred to another court.

Section 36-5-3003. Transfer of Support or Custody Order.--- (a) Except as provided in § 36-5-3001(b), a case which includes child support or custody provisions may be transferred between counties in Tennessee upon request of a requesting party without the need for any additional filing by the requesting party, or service of process upon the non-requesting party, in order to retain jurisdiction over the parties.

(b) A case may be transferred by a court to any court of competent jurisdiction if all of the following apply:

(1) Neither the child nor the obligee or non-custodial parent currently reside in the issuing county;

(2) The child resides in the county to which the case is being transferred; and

(3) The child has resided in the county to which the case is being transferred for at least six (6) months.

Section 36-5-3004. Procedure to transfer case.-- A case may be transferred by a party or by the department by sending a request for transfer to the transferor court. The request shall include the following information:

(1) A sworn statement by the party or the department seeking transfer that, to the best of the requesting party's or the department's

knowledge, neither the child nor the obligee or non-custodial parent resides in the transferor county and that the child now resides in the transferee county and that the child has resided there for at least six (6) months;

(2) The issuing court's docket number of the case to be transferred;

(3) The name of the other party and, if known, the other party's address and social security number;

(4) The name of the court and address of the clerk of the court to whom the case is to be transferred;

(5) The name and address, if known, of the employer of the obligor if the order has been or may be subject to an income assignment;

(6) That the request for transfer can be appealed by the nonrequesting party within fifteen (15) days of the date the notice was mailed by filing a motion for review of the request in the transferor court; and

(7) Certification by the requesting party or the department that a copy of the request with the information in subsection (1)-(6) has been mailed to the nonrequesting party.

(8) A copy of a notice, with the address of the nonrequesting party, to be sent by the clerk of the transferor court or the department in Title IV-D child support cases to the nonrequesting party in the event that the case is transferred which states that the case has been transferred and that all child support payments of the obligor are to be sent, as appropriate, to the clerk of the transferee court or to the Department of Human Services, as the case may be.

Section 36-5-3005. Duties of the transferor court.-- (a) If no request for appeal of the request for transfer is filed within fifteen (15) days pursuant to § 36-5-3004(6), or if the appeal contesting the transfer is denied by the transferor court, the clerk of the transferor court shall, within fifteen (15) days thereafter:

(1) Remove from the court file the original pleadings, orders and any other filed documents, or make certified copies of such documents;

(2) Prepare a certified, complete child support payment record, unless the case is being enforced by the Department of Human Services pursuant to Title IV-D of the Social Security Act in which situation the department's child support computer system, if operative for the transferor and transferee court at the time of the transfer, shall be used as the child support payment record and the clerk shall not be required to prepare the certified child support payment record; and;

(3)(A) Mail the originals, or certified copies of the originals, of all documents and, if necessary, the certified child support payment record, to the clerk of the court of the transferee court. The department shall mail the notice in Title IV-D child support cases. The computer record, if operative, shall be used as the official record of the child support obligation.

(B) Mail the notice supplied pursuant to § 36-5-3004(8) to the non-requesting party.

(b) The clerk of the transferor court shall not be required to maintain the copies of the original pleadings or other original documents in the record, but may do so if certified copies are sent.

(c) Upon receipt of the transferred documents and assignment of a docket number by the transferee court, the jurisdiction of the transferor court is terminated.

Section 36-5-3006. Duties and powers of transferee clerk and transferee court.-- (a) A transferee court, upon receipt of the transferred documents from the transferor court shall assign a docket number to the case and establish a case file, and shall create a child support payment record, unless the case is being enforced under Title IV-D of the Social Security Act, in which case the department's child support computer system, if operative for the transferor and transferee court at the time of the transfer, shall be used as the child support payment record and the clerk shall not be required to create a separate child support payment record.

(b) A transferred order of child support or custody is enforceable and modifiable in the same manner and is subject to the same procedures as if the order had been originally issued by the transferee court.

(c)(1) Upon receipt of the certified payment record from the transferor court, the transferee court shall admit the certified copy as evidence of payments made or not made. Testimony of the record keeper from the transferor court shall not be required. If the case is being enforced under Title IV-D of the Social Security Act the department's child support computer system, if operative for the transferor and transferee court at the time of the transfer, shall be used as the child support payment record, and no further evidence of the record keeper shall be required.

(2) The certified copy of the custody and parental access or visitation orders shall be admitted as evidence of the current custodial and parental access or visitation status of the child without testimony of the record keeper of the transferor court.

Section 36-5-3007. Contest of Transfer.--- (a) A party may contest the transfer of the case by filing a motion in the transferor court for that purpose within fifteen (15) days of the mailing date of the notice from the requesting party. Unless it is shown by the nonrequesting party that notice of the request for transfer was not received, failure to appeal the transfer request within the fifteen (15) day period waives an objection to the transfer request.

(b) The contest of the transfer shall be limited to whether:

(1) One party or the child continues to reside in the transferor county; or

(2) The child has resided in the transferee county for at least six (6) months.



(c) If the case has been transferred pursuant to this part, the fact that one of the parties or the child returns to the transferor county does not automatically confer jurisdiction upon the previous transferor court unless the child has returned to and resided in the transferor county for at least six (6) months.

Section 36-5-3008. Costs and fees.-- (a) There shall be a fee of twenty dollars (\$20.00) for a transfer request pursuant to this part except as otherwise provided in this section.

(b) When a transfer request is made by the Department of Human Services or its contractors, the fee and all taxes shall be waived for the department or its contractors.

(c) Costs of court and for making copies and for providing certifications, fees and taxes shall be adjudged by the transferee court for both the clerks of the transferor court and the transferee court against the obligor and shall be apportioned between each clerk as to the costs, fees and taxes due for each clerk.

(d) The clerk will file any request for transfer even without the sum required by subsection (a) and carry out the requirements of this part. If not paid, such sum shall be added to the cost bill to be assessed by the transferee court.

SECTION 6. Tennessee Code Annotated, Title 36, Chapter 5 is amended by adding the following as a new part 31:

36-5-3101. Purpose and Construction of Part.-- The purpose of this part is to provide a procedure for the enforcement of support obligations arising under the law against an obligor without a transfer of jurisdiction to modify the order. The provisions of this part shall be liberally construed to effectuate its purposes.

36-5-3102. Definitions.-- The following definitions apply to this part unless the context otherwise clearly requires:

(1) "Court"--Means a Juvenile, Circuit, or Chancery Court or other court of this State with jurisdiction to enter support or custody orders.

(2) "Clerk"--Means the clerk of the original or registering court, or the clerk of any court who has been designated by either of those courts to collect support payments for such court.

(3) "Department"--Means the Department of Human Services or its contractor.

(4) "Issuing court"--Means the court which entered the order sought to be enforced in the registering court.

(5) "Nonrequesting party"--Means the party against whom a registered order is sought to be enforced.

(6) "Obligor"--Means an individual against whom a support order has been entered.

(7) "Obligee"--Means an individual or agency to whom a support obligation is owed by an obligor.

(8) "Registering court"--Means the court in which a support order is registered for enforcement only.

36-5-3103. Registration of order for enforcement.-- (a) A support order issued by a court of this State may be registered in the county where the obligor resides in this State for enforcement purposes only. A support order issued by a court in one county may be registered in another county by the person or agency seeking only enforcement of the original order against a support obligor by sending the following documents and information to the appropriate court in the registering county:

(1) one certified copy of all orders to be registered, including any modification of an order;

(2) a letter or transmittal document which includes the following information:

(A) the name of the obligor, and if known:

(i) the obligor's address and social security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(B) the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be paid.

(3) a sworn statement by the party seeking registration or a certified statement of the clerk of the court or custodian of the records showing the amount of any arrearage being sought to be enforced unless the case is being enforced by the Department of Human Services pursuant to Title IV-D of the Social Security Act in which situation the department's child support computer system, if operative for the transferor and transferee court at the time of the transfer, shall be used as the child support payment record and the clerk or custodian shall not be required to prepare the certified statement of the child support payment record.

(4) a copy of a notice, with the address of the nonrequesting party, to be sent by the clerk of the registering court or the department in Title IV-D child support cases to the nonrequesting party pursuant to § 36-5-3105 which states:

(A) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a court of the registering county;

(B) that a hearing to contest the validity or enforcement of the registered order must be requested to the registering court within fifteen (15) days after the date of mailing of the notice;

(C) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order by operation of law, will result in enforcement of the order and the alleged arrearages, and will preclude further contest of that order with respect to any matter that could have been asserted;

(D) the amount of any alleged arrearages; and

(E) that, if the registered order is confirmed by operation of law or by court order, all payments made under the order shall be made to the clerk of the registering court or to the Department of Human Services, or another clerk, as appropriate.

(b) On receipt of a request for registration, the registering court shall cause the order to be filed, together with one (1) copy of the documents and information, regardless of their form.

(c) A petition seeking a remedy that must be affirmatively sought may be filed at the same time as the request for registration or may be filed later.

(d) All payments received by the issuing court after the order has been registered shall be sent by the clerk of the issuing court to the clerk of the registering court, or the Department of Human Services if the clerk of the registering court is not participating in the child support enforcement system, without credit being given to the obligor by the clerk of the issuing court.

36-5-3104. Effect of registration of order.-- (a) A support order issued in another county is registered for enforcement pursuant to this part when the order is filed in the registering court and the requirements of § 36-5-3103(a) are met.

(b) A registered order originally issued in another county is enforceable in the same manner and is subject to the same procedures as an order issued by a court of the registering county.

(c) Except as otherwise provided in this part, a court of the registering county shall recognize and enforce, but may not modify, a registered order.

36-5-3105. Notice of registration of order.-- When a support order issued in another county is registered, the registering court or the department in Title IV-D child support cases shall send the notice required by § 36-5-3103(a)(4) to the nonregistering party within two (2) days of the registration.

36-5-3106. Procedure to contest validity or enforcement of registered order.--

(a) A nonregistering party seeking to contest the validity or enforcement of a registered order pursuant to this part shall request a hearing within fifteen (15) days after the date of mailing of the notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering court shall schedule the matter for hearing and give notice to the parties of the date, time and place of the hearing.

36-5-3107. Contest of registration or enforcement.-- (a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the registered order was obtained by fraud;

(2) the registered order has been vacated, suspended, or modified by a later order;

(3) the issuing court has stayed the registered order pending appeal;

(4) the statement of arrears is incorrect.

(b) If a party presents evidence establishing a full or partial defense under subsection (a), the court where the order is registered may stay enforcement of the registered order until the issues have been resolved by the court that issued the order. Any uncontested portion of the registered order may be enforced by all remedies available pursuant to law.

(c) If a contesting party does not establish a defense pursuant to subsection (a) regarding the validity or enforcement of the order, the registering court shall issue an order confirming the order. An order confirming registration of the order is not required if no contest to the registration is made.

36-5-3108. Effect of confirmed order.-- Unless it is shown by the nonrequesting party that notice of the request for transfer was not received, confirmation of an order by operation of law or following a hearing precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

36-5-3109. Rights of the Department of Human Services.-- Whenever the Department of Human Services furnishes support to an obligee, it has the same right to invoke the provisions of this part as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures made on behalf of the obligee and for the purpose of obtaining continuing support.

36-5-3110. Disbursement of collections.-- (a) When the clerk of the court of the registering county collects the support which was owed and which has been enforced by the court of the registering county pursuant to this part, the clerk shall send the support amount, less the statutory fee of the clerk, directly to the obligee, or to the Department of Human Services, as appropriate, but the clerk shall not send the support amount to the issuing court from which the original order was issued and which was registered for enforcement pursuant to this part.

(b) If the clerk is not participating in the statewide child support computer system and the case is being enforced by the Department of Human Services under Title IV-D of the Social Security Act, any support payments shall be sent by the obligor to the department or to the appropriate participating clerk.

36-5-3111. Costs--(a) There shall be a fee of twenty dollars (\$20.00) for the registration of an order pursuant to this part except as otherwise provided in this section.

(b) When an order is registered by the Department of Human Services or its contractors, the fee shall be waived for the department or its contractors.

(c) The respondent shall be liable for the costs of the issuing court and the registering court together with the required filing fee, upon the court finding the respondent liable for the failure to pay the support as required by the registered order. The costs shall be apportioned between the clerks of the issuing court and the registering court according to their fees, costs and the taxes due.

(d) The clerk will file any request for registration even without the sum required by subsection (a) and carry out the requirements of this part. If not paid, such sum shall be added to the cost bill to be assessed by the registering court.

SECTION 7. Tennessee Code Annotated, Section 36-5-101 is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c) In intrastate cases, jurisdiction to modify, alter or enforce orders or decrees for the support of children shall be determined in accordance with the provisions of Sections 5 and 6 of this act.

SECTION 8. Tennessee Code Annotated, Section 36-5-103 is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) In intrastate cases, jurisdiction to modify, alter or enforce orders or decrees for the support of children shall be determined in accordance with the provisions of Sections 5 and 6 of this act.

SECTION 9. Tennessee Code Annotated, Section 37-1-104(d) is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1)(A) The Juvenile Court has concurrent jurisdiction and statewide jurisdiction with other courts having the jurisdiction to order support for minor children and shall have statewide jurisdiction over the parties involved in the case.

(B) In intrastate cases, jurisdiction to modify, alter or enforce orders or decrees for the support of children shall be determined in accordance with the provisions of Sections 5 and 6 of this act.

(C) In any political subdivision or judicial district of the State in which a court by contract is the agency designated to provide child support enforcement pursuant to Title IV-D of the Social Security Act, and if a judge with child support jurisdiction in that political subdivision or judicial district agrees, the contracting court shall have jurisdiction in any case in such judge's court in which an application is made for assistance in obtaining support under provisions of this part. Upon application being made for child support enforcement assistance as provided by law, the contracting court shall assume jurisdiction and it is the duty

of the court clerk to so notify the clerk of any court having prior jurisdiction. The contracting court shall then proceed to make and enforce such orders of support as it deems proper within its jurisdiction pursuant to the agreement. The contracting court shall not have jurisdiction in any case in which an absent parent is in full compliance with a support order of another court.

SECTION 10. Tennessee Code Annotated, Title 71, Chapter 1, Part 1 is amended by adding the following as a new section:

(a)(1) The records of the department or its contractors or agents concerning the application for and receipt of Title IV-D services provided by the department, its contractors or agents pursuant to this part or pursuant to Titles 36 or 37, and any information from federal or state agencies which is otherwise required by federal law or regulations to be given to the department and to be held by the department in a confidential manner, and any information which is required to be given to the Department of Human Services, its contractors or agents by any requirement of federal or state law as part of the department's Title IV-D responsibilities to enforce child or spousal support, but which is otherwise protected as confidential by a state's law or regulations, shall be confidential and shall not be available for public inspection by any person or entity or for use in judicial or administrative proceedings or for law enforcement activities, nor may any information identifying any name or address of an applicant or recipient of Title IV-D services provided by the department, its contractors or agents pursuant to this part or under Titles 36 or 37 be disclosed to any federal, state or local committee or legislative body, except as provided in this section, and where not otherwise directly contrary to federal or state law or regulations.

(2) Except where information in the child or spousal support record which has been provided to the department pursuant to any federal or state law or regulation for purposes related to the establishment, enforcement or modification of child or spousal support under the Title IV-D child support program is otherwise specifically protected from further disclosure or further use by any other federal or state law or regulation, the department is specifically authorized to further utilize or further disclose the records of any applicant, recipient, or member of a family or household which receives child or spousal support services for any purposes which it determines in its sole discretion are directly connected with:

(A) The administration of the plan or program approved under Parts A, B, D, E, or F of Title IV of the Social Security Act or under Titles I, XIV, XVI, XIX, or XX of the Social Security Act, or the supplemental security program (SSI) established under Title XVI of the Social Security Act;

(B) Any investigations, prosecutions, or civil, criminal or administrative proceeding conducted in connection with the administration of any such plan or program under subdivision (2)(A);

(C) The administration of any other Federal or Federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need;

(D) Reporting to an appropriate agency or official, information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is

the subject of a child enforcement activity under circumstances which indicate that the child's health or welfare is threatened by such treatment;

(E) A response to a request for child support payment records of a child support obligor; and

(F) Inquiries from legislative representatives of an obligor or obligee concerning child support payment records or child support legal and administrative procedures utilized to attempt recovery of support payments involved in individual cases under a support order upon a release for that person authorized by the affected person. An inquiry and release by one party under this subdivision does not authorize release of information involving the other party other than the child support payment record and child support legal or administrative procedures utilized to attempt recovery of support payments from the other party. Nothing in this subdivision shall be construed to authorize release of any information which is otherwise protected as confidential pursuant to this section.

(3) Notwithstanding the foregoing provisions of this section and any other law to the contrary, no information shall be disclosed by the department pursuant to this section from Title IV-D records maintained by the department, its contractors or agents when:

(A) A protective order has been entered against one party and the release of information from such record would disclose the whereabouts of the party for whose benefit the protective order was entered; or

(B) The department, its contractors or agents have reason to believe that the release of information concerning the whereabouts of one party to another party may result in physical or emotional harm to the former party.

(4) Notwithstanding the provisions of any law to the contrary, when any information regarding a consumer report, as defined in 15 U.S.C. § 1681a, from a consumer reporting agency is obtained by the department, its contractors or agents, such information will be kept confidential and will be used solely for the purposes of establishing an individual's capacity to make child or spousal support payments or in determining the appropriate level of such payments, and such report shall be confidential and will not be available by subpoena or court order for any civil, criminal, or administrative proceeding, law enforcement activity or for any other purpose, except for the purpose of the establishment, enforcement and modification of child or spousal support obligations by the department, or by any federal, state, territorial, or foreign child or spousal support enforcement agency, or by their contractors or agents.

(5) Notwithstanding the provisions of any law to the contrary, any financial information obtained from a financial institution by the department, its contractors or agents regarding an individual shall be confidential and will not be available by subpoena or court order for any civil, criminal or administrative proceeding, law enforcement activity or for any other purpose, and shall be disclosed only for the purpose of and to the extent necessary for the establishment, enforcement and modification of child or spousal support obligations by the department, its contractors or agents or by any federal, state,

territorial, or foreign child support enforcement agency or their contractors or agents.

(6) Notwithstanding the provisions of any law to the contrary, any information which is required to be given to the Department of Human Services, its contractors or agents by any requirement of federal or state law or regulations as part of the department's responsibilities to enforce child or spousal support, but which is otherwise not subject to the provisions of subdivisions (4) and (5), and which is otherwise ordinarily protected by federal or state law or regulations from disclosure or use because it is protected as confidential information, shall be confidential and shall not be available by subpoena or court order for any civil, criminal, administrative proceeding, law enforcement activity, or for any other purpose. Such information shall be disclosed only to the extent permitted by such federal or state laws or regulations, or only for the purpose of and to the extent necessary for the establishment, enforcement and modification of child support obligations by the department, its contractors or agents or by any federal, state, territorial, or foreign child support enforcement agency or their contractors or agents.

(7)(A)(i) Except as released pursuant to subdivision (2) by the department, its contractors or agents, and except as prohibited by subdivisions (3), (4), (5) and (6), the records or portions of records or testimony of current or former employees, agents or contractors of the department concerning the Title IV-D child support program may be released only pursuant to a written order for their disclosure issued by a judicial or administrative tribunal and served personally upon the Commissioner of Human Services or his or her designee at least five (5) business days prior to the date designated for disclosure. A subpoena shall not be sufficient to obtain the disclosure of Title IV-D child support records. Unless waived by the department, any order for disclosure not properly served shall be void and of no effect whatsoever.

(ii) Except as necessary for use in a judicial proceeding or an administrative proceeding concerning a Title IV-D child or spousal support matter in which such records must be disclosed, and for any appeal therefrom, any records of the Title IV-D child support program which may be ordered disclosed pursuant to this subdivision for use in any other civil or criminal judicial or other administrative proceeding must also have a written protective order issued by the court or administrative law judge or hearing officer and served upon the Commissioner of Human Services prior to the release of the records pursuant to this subdivision. The protective order shall state that there will be no further disclosure beyond the necessary use by the tribunal and the parties for the conduct of those proceedings. The department shall not be required to disclose any records until the receipt of the protective order by the department or its designee.

(B) The department may comply with a properly served order issued by a state or local judicial or administrative tribunal pursuant to this subdivision by sending copies of pertinent portions of the record requested, or by sending an abstract of the pertinent information from its computer records or other records, in a sealed envelope addressed to the court or administrative body or the person taking a deposition, together with an affidavit of an authorized agent of the department attesting to the authenticity of the record, unless the court or administrative body, for good cause shown, enters an order in the record



requiring the attendance of a department, contractor or agent employee at the proceeding.

(C) The department, its contractors or agents may file a motion to quash or modify any subpoena or order for disclosure issued by any judicial or administrative tribunal or by any legislative entity, and no records shall be disclosed pursuant to any subpoena or order until the conclusion, including appeal, of the proceedings seeking to quash or modify the subpoena or order.

(8) A knowing violation of the provisions restricting the disclosure of information pursuant to this section shall be a Class B misdemeanor.

(b) Notwithstanding any other provisions of this section, information which is required to be provided to the Department of Human Services, its contractors or agents by the Department of Employment Security shall not be further disclosed or utilized except to the extent permitted and for the purposes allowable pursuant to § 50-7-701 or under applicable federal or state law or regulations.

SECTION 11. Tennessee Code Annotated, Title 36, Chapter 5, is amended by adding the following as a new Part 8:

36-5-801. Access to records for child support enforcement.--(a) For the purpose of establishing paternity, or for the establishment, modification or enforcement of orders of support under the child support program established under Title IV-D of the Social Security Act, the Department of Human Services shall have the authority to:

(1) Subpoena, by an administrative subpoena issued by the commissioner, by any authorized representative of the commissioner, or by any contractor of the department, any financial or other information needed to establish, modify, or enforce an order of support;

(2) Require all entities in the State, including, but not limited to, for-profit, non-profit and governmental employers, to provide promptly, in response to a request or administrative subpoena from the department, its Title IV-D contractor, or by the Title IV-D agency or contractor of any other state, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or as a contractor.

(3)(A) Obtain upon request, or by administrative subpoena if necessary, and notwithstanding any other law to the contrary, access, including automated access if available, to the following records of any state or local agency:

(i) Vital statistics, including records of voluntary acknowledgments, marriages, births, deaths and divorces;

(ii) State and local tax records and revenue records, including information about the residence address, employer of any individual, and the individual's income and assets;

(iii) Records of real and titled personal property;

(iv) Records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

(v) Employment security records;

(vi) All records of any state or local agency administering any form of public assistance;

(vii) Records relating to the registration and titling of motor vehicles;

(viii) Records of state, county, or municipal correctional agencies;

(4) Obtain pursuant to an administrative subpoena, and notwithstanding any other law to the contrary, access to certain records held by private entities with respect to individuals who owe or are owed support or against or with respect to whom a support obligation is sought, consisting of the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities, including all electric, gas, telephone and water companies and cable television companies; and

(5) Obtain upon request, and by administrative subpoena if necessary, and notwithstanding any other law to the contrary, information, including, but not limited to, information on assets and liabilities held by any financial institution regarding any individuals who owe, are owed or against or with respect to whom a support obligation is owed.

(6)(A) Notwithstanding the provisions of any other law to the contrary, the Department of Human Services, and any of its Title IV-D child support contractors, or the Title IV-D agency of any other state or territory, or any of their Title IV-D child support contractors and any Federal agency conducting activities under Title IV-D of the Social Security Act, shall have access to any information maintained by any agency of the State of Tennessee which maintains any system used to locate any individual for any purpose relating to registration of any motor vehicles or law enforcement activities.

(B) For purposes of this subdivision, "system" shall be defined as any automated, computerized or electronic system used by any state law enforcement agency, or any state agency which otherwise maintains any records of motor vehicles, in which any information relative to the location or address of any individual persons are maintained by such agencies.

(C) The Department of Human Services shall have rulemaking authority to prescribe the information required by the provisions of this subdivision.

(b) No administrative subpoena shall issue to individuals or entities, other than the obligor or obligee, pursuant to this part without prior review and approval of the necessity for its issuance by a licensed attorney employed by the department or its contractor.

(c) A request or administrative subpoena pursuant to this section may be contested by filing an appeal pursuant to the provisions of Section 16 of this act.

36-5-802. Administrative orders for parentage tests.-- For the purpose of establishing paternity orders of support under the child support program established under Title IV-D of the Social Security Act, the Department of Human Services shall have the authority:

(1) To issue an administrative order by the commissioner, authorized representative of the commissioner or the department's contractor directed to one or more persons to order the genetic testing of the child, the mother and the putative father(s) for the purpose of paternity establishment without the necessity of filing a paternity action;

(2) If the department orders such tests, it shall pay the costs of such tests and may recoup such costs from the putative father upon establishment of his paternity of the child in question or upon establishment of an order of support of the child for whom paternity has been established;

(3) The department may obtain additional testing by administrative order in any case in which an original test is contested upon request of and payment of the costs of such tests by the contestant. The party requesting the tests, other than the department, shall make advance payment for such tests. The department may recoup the costs of such tests it obtains at its request from the putative father upon establishment of his paternity of the child in question or upon establishment of an order of support of the child for whom paternity has been established.

(4) The department may obtain additional tests at its request and may direct the parties by administrative order to attend and to undergo such tests.

36-5-803. Administrative orders to redirect child support payment.--

(a) The commissioner's authorized representative, or the department's Title IV-D contractor, is authorized to issue an administrative order to direct the obligor or other payor in Title IV-D child support cases to change the payee to the clerk or to the department. Notice of the order shall be provided by the department to the obligor and the obligee.

(b) A copy of the administrative order issued pursuant to this section shall be sent to the clerk of the court which issued the original order and the administrative order shall be entered in the court record.

36-5-804. Administrative orders to direct additional payments to reduce arrearages.

(a) For the purpose of securing overdue support, the commissioner, or the commissioner's duly authorized representatives or the department's Title IV-D contractor, shall have the authority to enter an administrative order to add an amount to the monthly support order which will reduce the arrearage by payment of a reasonable amount toward the reduction of the arrearage over a reasonable period of time.

(b) A copy of the administrative order issued pursuant to this section shall be sent to the clerk of the court which issued the original order and the administrative order shall be entered in the court record.

36-5-805. Updating of information of parties to certain administrative actions.--(a) Each individual who is a party to any action pursuant to §§ 36-5-802, 36-5-803 and 36-5-804 of this part shall be required, and the department shall order the party to file with the local Title IV-D child support office, upon entry of an order by the department, and to update, as appropriate, the party's:

(1) Change in name;

(2) Social security number;

(3) Residential and mailing addresses;

(4) Home telephone numbers;

(5) Driver's license number;

(6) The name, address, and telephone number of the person's employer; and,

(7) The availability and cost of health insurance for the child.

(b) Any update must be made within twenty (20) days of the date of a change in circumstances of the person and the order shall give notice of this requirement.

(c) In any subsequent child support enforcement action, the delivery of written notice as required by Tennessee Rule of Civil Procedure 5 to the most recent residential or employer address shown in the department's records or the Title IV-D agency's records as required in subsection (a) shall be deemed to satisfy due process requirements for notice and service of process with respect to that party if there is a sufficient showing that a diligent effort has been made to ascertain the location and whereabouts of the party.

(d) Upon motion of either party, upon a showing of domestic violence or the threat of such violence, the department may enter an administrative order to withhold from public access the address, telephone number, and location of the alleged victim(s) or threatened victims of such circumstances or such other information, as specifically ordered by the department.

36-5-806. Administrative review of certain administrative orders.

The persons against whom the administrative orders in §§ 36-5-802, 36-5-803 and 36-5-804 were issued shall have a right to administratively appeal such orders pursuant to the provisions of Section 16 of this act.

36-5-807. Automated processes and service of documents. (a) To the maximum extent feasible, the department's automated child support enforcement system shall be utilized to carry out the expedited procedures of this part and the system may be used for the issuance and service of any requests, administrative orders, or subpoenas necessary to enforce child support obligations and such automated service shall be effective for all purposes in this part. Electronically reproduced signatures shall be effective to issue any orders or subpoenas pursuant to this part.

(b) Notwithstanding the provisions of subsection (a), any requests, administrative orders or administrative subpoenas required to be issued pursuant to this part may be transmitted to any party or person by any method chosen by the department, including but not limited to: certified mail, return receipt requested, regular mail, electronic mail, facsimile transmission, or by personal service, and may be generated by computer or on paper.

(c) If an administrative order or administrative subpoena is returned or otherwise not deliverable, then service shall be had by any alternative method chosen by the department, as listed in subsection (b). Before taking action against an individual or entity for failure to comply with this part, the department shall ensure that service of the administrative order, administrative subpoena, or request, was confirmed by certified mail or by personal service.

36-5-808. Statewide jurisdiction of department. The department's authority and jurisdiction in issuing requests, administrative orders, or subpoenas pursuant to any administrative authority granted by law shall be statewide over all persons or entities in cases subject to its administrative procedures.

36-5-809. Enforcement of out-of-state requests, administrative orders and administrative subpoenas.--(a) Administrative orders of child support enforcement agencies of other states or territories seeking to conduct any of the activities provided in this part shall receive full faith and credit and shall be enforceable against persons or entities in this State.

(b) The administrative orders issued by such agencies may be enforced on their behalf by the department or its Title IV-D contractors pursuant to the requirements of § 36-5-811.

36-5-810. Immunity for compliance with requests, orders and subpoenas. All persons or entities complying with any requests, administrative orders, or administrative subpoenas issued pursuant to this part shall be absolutely immune from any liability, civil or criminal, for compliance with the terms of such requests, administrative orders or administrative subpoenas. Nothing herein shall be construed to mean, however, that such immunity applies to any person's civil or criminal liability for support or for failing to provide support as directed by any tribunal's judicial or administrative order, or by law or by regulation.

36-5-811. Enforcement of requests for information. (a) Failure to comply with a request for information under §36-5-801(a) may be enforced by the department by the imposition of a civil penalty of one hundred dollars (\$100.00) for the failure to respond to such request.

(b) Such penalties shall be assessed by the Commissioner of Human Services after written notice which provides fifteen (15) days to file a written request for appeal. An appeal shall be conducted by the department as provided in the Uniform Administrative Procedures Act, Title 4, Chapter 5, Part 3.

(c) Failure to timely appeal the assessment of the civil penalty shall be final and conclusive of the correctness of the penalty.

(d) Any amount found owing shall be due and payable not later than fifteen (15) days after the date of transmission of the determination.

(e) Failure to pay an assessment shall result in a lien in favor of the Department of Human Services against the real and personal property of the person or entity to whom or which the request was directed and shall be enforced by original attachment issued by any court having jurisdiction of the monetary amounts assessed in the county where the person resides or where the entity is located.

36-5-812. Enforcement of requests, administrative orders and administrative subpoenas.--(a) The department may enforce an administrative order or subpoena, or the civil penalties authorized in § 36-5-811 above, by filing a motion for such purpose in the Chancery, Circuit, Juvenile Court, or other domestic relations court, having jurisdiction over the support order, or at the option of the department or its Title IV-D contractor, in the county of the residence of the person or of the location of the entity against whom the request, administrative order or administrative subpoena was issued.

(b) The court may enforce any of its orders pursuant to this section by contempt orders.

(c) The department may also enforce such administrative orders by directing the revocation, denial, or suspension of any license, as defined in §36-5-701, of any person or entity.

(d) Such enforcement methods shall be cumulative, and not exclusive, of any other remedies provided by law for the enforcement of any orders by the court or by the department.

36-5-813. Liability for fees and costs. The individual or entity to whom or to which the request, administrative order or administrative subpoena is issued pursuant to this part and which is enforced by the court pursuant to § 36-5-812 shall be liable for all court costs of the proceedings and shall be liable to the department for the cost of any private, contract or government attorney representing the State and for the time of any of its Title IV-D contractor staff utilized in litigating the administrative order or administrative subpoena.

36-5-814. For purposes of this section, "financial institution" shall mean:

(1) A depository institution , as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c);

(2) An institution-affiliated party, as defined in Section 3(u) of such Act (12 U.S.C. 1813(u), including for purposes of §36-5-810;

(3) Any Federal credit union or State credit union as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including, for purposes of § 36-5-810, an institution-affiliated party of such a credit union, as defined in Section 206 of such Act (12 U.S.C. 1786);

(4) Any benefit association, insurance company, safe deposit company, money-market mutual fund, securities broker/dealer, or similar entity authorized to conduct business in this State.

36-5-815. Rulemaking authority. The department shall have authority to promulgate rules to implement any provisions of this part pursuant to the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5.

SECTION 12. Title 36, Chapter 5, of the Tennessee Code Annotated is amended by adding the following as a new part:

36-5-901. Liens for child support arrearages.-- (a)(1) In any case of child or spousal support enforced by the Department of Human Services or its contractors under Title IV-D of the Social Security Act in which overdue support is owed by an obligor who resides or owns property in this State, a lien shall arise by operation of law against all real and personal property, tangible or intangible, then owned or subsequently acquired by the obligor against whom the lien arises for the amounts of overdue support owed or the amount of penalties, costs or fees as provided in this chapter.

(2) "Overdue support" shall be defined for purposes of this part, as any occasion on which the full amount of ordered support ordered for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent the spousal support would be included for the purposes of 42 U.S.C. 654A(4), is not paid by the due date for arrears as defined in § 36-5-101(a)(5) unless an income assignment is in effect and the payor of income is paying pursuant to § 36-5-501(g).

(b)(1) The commissioner may cause a notice of such lien on real property or upon any personal property to be recorded or filed, as appropriate in the appropriate place for the filing of a judgment lien or security interest in the property. This notice may be filed by automated means where feasible. The department shall not be required to pay the fee for filing the notice of lien at the time the notice is filed, but shall be given credit and billed once each month for the notices which it files pursuant to this subsection.

(2) Upon request, the department shall disclose the specific amount of liability at a given date to any interested party.

(3)(A) The department may cause a notice of lien to be filed or recorded and to be effective in any county in this State against all real or personal property of the obligor by provision by the State of Tennessee of a computer terminal arrangement in the office of the register of deeds or other state or local agency where the information regarding the existence, amount and date of the lien or security interest involving an obligor is made available to anyone who may be researching a title to real property or who may be seeking the status of any security interests or liens affecting any real or personal property held by an obligor. The cost for provision of the computer terminal arrangement, if used pursuant to this subdivision, shall be paid by the Department of Human Services.

(B) In the alternative, the Department of Human Services may, upon agreement by the Secretary of State, develop a central site for recordation of all notices of liens on all property, real or personal, which would be subject to the lien provisions of this part and the department and the Secretary of State shall have authority to promulgate any rules necessary pursuant to the provisions of the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5, to implement such central recordation site.

(C) In addition to the methods described in subdivisions (3)(A) or (3)(B), the department may cause the filing or

recording of liens against all real or personal property of the obligor by placing such notice on a site accessible on the Internet. If the methods described in subdivisions (3)(A) or (3)(B) are used, and if the Internet process authorized pursuant to this subdivision is also made available, the dates shown on the department's computer record and displayed in the appropriate office of recordation as provided in subdivisions (3)(A) or (3)(B) and those displayed on the Internet site shall be the same.

(D) The date noted in the department's computer record and which is displayed in the appropriate office of recordation as provided in subdivisions (3)(A) or (3)(B), or which is displayed on the Internet site as provided in subdivision (3)(C), will serve for purposes of perfection as the recording or filing date of the lien. The recording or filing provided by this subdivision shall serve as notice to anyone who may be researching a title to real property or who may be seeking the status of any security interests or liens affecting any real or personal property held by an obligor and shall become the date of recordation of the notice of lien for all purposes of this part.

(E) If any of the systems or procedures described above in this subdivision is provided by the department, the automated lien shall be effective for all purposes to give notice to persons who may be affected by the existence of such lien in the same manner as the recordation of notice in the lien book maintained by the register of deeds or in the records of any state or local agency maintaining such records.

(F) Prior to the implementation of the provisions of this subdivision, the department shall promulgate rules establishing procedures for the use of the automated system and shall, in addition to the other requirements of the Administrative Procedures Act for notice, provide specific notice to the State Clerks of Court Conference, Registers of Deeds, and the Tennessee Bar Association.

(4) Nothing herein shall require the department to file a notice of lien for the seizure of an obligor's assets held by a State or Local Agency, by a court or administrative tribunal, by a lottery, by a financial institution or by a public or private retirement fund pursuant to § 36-5-904(a)(1)-(3) or to obtain any income withholding from any employer or other payor of income as otherwise permitted under Title 36, Chapter 5, Part 5.

(c) The lien of the department for child support arrearages shall be superior to all liens and security interests created under Tennessee law except:

(1) County and municipal ad valorem taxes and special assessments upon real estate by county and municipal governments;

(2) Deeds of trust which are recorded prior to the recordation of notice of the department's lien;

(3) Security interests created pursuant to Article 9 of the Uniform Commercial Code, compiled in Title 47, Chapter 9, which require filing



for perfection and which are properly filed prior to recordation of the notice of the department's lien;

(4) Security interests perfected under the Uniform Commercial Code without filing, as provided in § 47-9-302(1), which are properly perfected prior to recordation of the notice of the department's lien;

(5) The lien or security interest of a financial institution against an obligor's interest in a deposit account at that institution for any indebtedness to the institution, including but not limited to, that institution's security interest in accounts pledged for loans, its rights under the Uniform Commercial Code or by contract to charge back uncollected deposits, revoke settlements or take other action against said account, its right to recover overdrafts and fees, and its right of offset for mature indebtedness;

(6) Other security interests in deposit accounts at a financial institution when such interests are reflected in the records of that financial institution prior to the receipt of an administrative order of seizure;

(7) Other liens recorded prior to the recordation of the department's lien, or concerning which a judicial proceeding was initiated prior to recordation of the department's lien.

(8) Vendors' liens on real estate provided for in Title 66, Chapter 10 which are recorded prior to the recordation of notice of the department's lien; and

(9) The tax liens of the Department of Revenue filed pursuant to Title 67 prior to the department's child support lien.

(d) (1) Nothing in this section shall be interpreted to give the department priority over any deed of trust or any security interest perfected under the Uniform Commercial Code prior to the filing of the notice of the department's child support lien, irrespective of when such child support lien arises. "Filing" for purposes of this subsection shall mean that the department has recorded its notice of lien pursuant to the provisions of subsection (b) by filing a document to record its notice of lien in the appropriate office for such recordation or that it has effectively recorded its lien pursuant to the automated recordation method permitted by subdivision (b)(3).

(2) No lien for child support arrearages shall be perfected against a motor vehicle unless such lien is physically noted on the certificate of title of such motor vehicle.

(3) Nothing in this act shall be deemed to give the department any priority over any possessory lien including, but not limited to mechanics' and materialmen's liens pursuant to Title 66, Chapter 11, Part 1; artisans liens pursuant to Title 66, Chapter 14 Part 1; or garagekeepers' and towing firm liens pursuant to Title 66, Chapter 19, Part 1.

(e) The notice of lien required to be filed or recorded under subsection (b), or any renewal thereof, shall be effective until the obligation is paid.

36-5-902. Full faith and credit to liens of other state child support agencies.--

(a) Full faith and credit shall be accorded to liens arising in any other State or territory for cases of child or spousal support enforced by the Title IV-D child support enforcement agency of the other State or territory as a result of the circumstances of § 36-5-901(a) for all overdue support, as defined in the other State or territory, when that other State or territory agency or other entity complies with the procedural rules relative to the recording, filing or serving of liens that arise within this State.

(b) The Department of Human Services may enforce the liens arising pursuant to this section by any means available for enforcement of its liens.

36-5-903. Rebuttable presumption as to ownership.--

(a) There shall be a rebuttable presumption concerning property which is subject to the provisions of this part, except where otherwise clearly noted by the evidence of title or otherwise, or where by law ownership of property is otherwise clearly stated, that at least one-half of all real or tangible personal property which is titled to or in the possession of the obligor is owned by the obligor who is subject to the lien provisions of this part.

(b) All jointly held accounts in any financial institution shall be rebuttably presumed to be available in whole to the obligor.

36-5-904. Enforcement of liens.--(a) In cases where there is an arrearage of child or spousal support in a Title IV-D child support case or in which a lien arises pursuant to § 36-5-901, the department is authorized, without further order of a court, to secure the assets of the obligor to satisfy the arrearage by:

(1) Intercepting or seizing periodic or lump-sum payments or benefits due the obligor:

(A) From a State or Local Agency;

(B) From judgments of any judicial or administrative tribunal, settlements approved by any judicial or administrative tribunal, and lottery winnings;

(2) By attaching or seizing assets of the obligor or other person or entity held in financial institutions as defined in § 36-5-910;

(3) By attaching public and private retirement funds; and

(4) By forcing the sale of the obligor's legal or equitable interest in property and by distribution of the proceeds of such sale.

36-5-905. Enforcement by administrative order of seizure.-- (a) The department may enforce the provisions of 36-5-904 for seizure or sale of assets of an obligor by the issuance of an administrative order to any person or entity which maintains the assets of the obligor or by order directing the sale of the real or personal property subject to the lien arising under § 36-5-901. The order shall direct the person or entity to hold, subject to any due process procedures provided the obligor, all assets of any kind of the obligor who is subject to the

order pending the outcome of the administrative due process procedures. The order shall be based upon and issued pursuant to an existing judicial or administrative order which has previously established support under which an arrearage, due to overdue support, as defined in §36-5-901, has occurred.

(b) Upon receipt of the administrative order, whether electronically or otherwise, the person or entity which has or may have the assets of the obligor shall immediately seize, hold, and encumber such assets, as directed by the department, pending further direction from the department as to the disposition of the assets or pending any further orders of any court of competent jurisdiction. The person or entity may place such funds as it has which belong to the obligor in an escrow account for such purpose and may take any other steps deemed reasonable to preserve any real or personal property.

(c)(1) All administrative orders for seizure or sale shall be subject to and subordinate to:

(A) Any order of a United States Bankruptcy Court;

(B) An attachment or execution under any judicial process in effect at the time of the administrative seizure order, pending modification of such court's orders; or

(C) A priority under §36-5-901(c).

(2) If the assets of the obligor are known by the person or entity which received such administrative order to be subject to any orders of the United States Bankruptcy Court, or to any attachment, execution or existing lien, said person or entity shall, within ten (10) days after receipt of the administrative order, notify the department at the address contained in the order. With respect to deposit accounts of the obligor, the depository financial institution shall inform the department of the unencumbered balances of such accounts.

(d) Upon receipt of direction from the department that all due process procedures have been completed or were waived in any manner, and subject to the provisions of subsection (c) and subject to the priority for the department's liens as described in §36-5-901(c), the person or entity shall pay or deliver to the department, pursuant to its direction, the assets of the obligor which are held or which come into the possession or control of the person or entity and which are necessary to comply with the terms of the department's administrative order.

(e)(1) There shall be no requirement of advance judicial notice or hearing prior to the seizure of the obligor's property by administrative order, but the Department of Human Services shall promulgate rules to provide procedures for the seizure of any property subject to the lien arising under this part and to provide post-enforcement procedures to permit the obligor to contest the seizure of any property pursuant to this part and Section 16 of this act.

(2) Such rules shall not permit the final disposition of any property seized under the lien enforcement procedures until the exhaustion of administrative and judicial remedies as provided in this part and shall make the disposition subject to the lien priorities of § 36-5-901.

(3)(A) A notice shall be sent to the obligor against whom the administrative order for seizure or sale of assets is directed by mail within five (5) days of the issuance of such administrative seizure order of the fact that such assets have been the subject of an administrative order and that they have been seized or are subject to sale and are being held, may be conveyed to the department or may be sold, subject to the right to an administrative hearing to contest the seizure or sale of such assets.

(B) The notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property actually seized and, in the case of real property, a description with reasonable certainty of the property seized. In the case of assets in a financial institution, it shall be sufficient to notify the obligor of the seizure of any assets of the obligor which may be held by any institution to which the order is directed.

(f) A final order of seizure or sale of the obligor's property pursuant to this part shall be effective to convey and vest title in the department or in the purchaser and shall be evidence of title for all purposes. The commissioner or the commissioner's agent may convey title to personal property by certificate of title or may execute a deed conveying title to real property to the purchaser in accordance with regulations as may be prescribed by the commissioner.

(g) All persons or entities complying with any administrative order issued pursuant to this section shall be absolutely immune from any liability, civil or criminal, for compliance with the terms of such order or attempted compliance in good faith with such order.

36-5-906. Exemptions From Sale.--(a) Enumeration. There shall be exempt from sale of personal property subject to lien pursuant to this part:

(1) Wearing apparel, school books and family bible. Such items of wearing apparel and such school books as are necessary for the obligor or for members of the obligor's family, and the family bible or other book containing the family's religious beliefs;

(2) Fuels, Provisions, Furniture, And Personal Effects. If the obligor is the head of the family, so much of the fuel, provisions, furniture, and personal effects in the obligor's household, and of the arms for personal use, livestock, and poultry of the obligor, as does not exceed five thousand dollars (\$5,000) in value;

(3) Books And Tools Of A Trade, Business, Or Profession. So many of the books and tools necessary for the trade, business or profession of the obligor as do not exceed in the aggregate two thousand five hundred dollars (\$2,500) in value.

(b) Appraisal. The agent of the department seizing property of the type described in subsection(a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the obligor objects at the time of the seizure to the valuation fixed by the agent making the seizure, the commissioner or the commissioner's agent shall summon three (3) disinterested individuals who shall make the valuation.

(c) No Other Property Exempt. Notwithstanding any other law of the State of Tennessee, no property or rights to property shall be exempt from levy other than the property specifically made exempt by subsection (a) of this section.

36-5-907. Release of lien.-- (a) At any time after the child support obligation has been paid, the person holding title to the property on which the lien is placed may request the department to release the lien. If the department does not release the lien within sixty (60) days of the request, it shall be liable for court costs in any action to remove the lien.

(b) The department may cause the issuance of releases of all liens or notices or seizure by filing or recording such release with the register of deeds or any other appropriate state or local office or may supply copies of such liens to any person requesting a release for filing or recording by that person.

(c) The release may be conveyed by any electronic means or by facsimile transmission. If a facsimile transmission is utilized pursuant to this subsection, it shall be supplemented by a copy of suitable quality if such facsimile's quality is not adequate for purposes of recording by the register or other appropriate official.

§ 36-5-908. Department control; real estate and personal property.--

The commissioner or the commissioner's agent shall have charge of all real estate or personal property which is or shall become the property of the department by seizure or judgment under any provision of this or any other title, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the department in payment of child support obligations, debts or penalties arising thereunder, or which has been or shall be vested in the department by mortgage or other security for the payment of such obligations, or which has been redeemed by the department, and of all trusts created for the use of the department in payment of such debts due the department.

36-5-909. Limitation on rights of action.-- No action may be maintained against any officer or employee of the State (or former officer or employee or the officer's or employee's personal representative) with respect to any acts for which an action could be maintained under this part.

36-5-910. Definition of financial institution.-- For purposes of this part, "financial institution" shall mean:

(1) A depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c);

(2) An institution-affiliated party, as defined in Section 3(u) of such Act (12 U.S.C. 1813(u);

(3) Any Federal credit union or State credit union as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in Section 206 of such Act (12 U.S.C. 1786);

(4) Any benefit association, insurance company, safe deposit company, money-market mutual fund, securities broker/dealer, or similar entity authorized to conduct business in this State.

36-5-911. Cooperation by state and local agencies.-- All state and local agencies shall cooperate with the Department of Human Services to carry out the provisions of this part. Nothing in this section shall be construed to require or permit the shifting of the costs for provision of computer terminal hardware or software pursuant to § 36-5-901(b)(3) from the State of Tennessee to any local government.

36-5-912. Enforcement procedures-- Rules and regulations for enforcement-Contracts for enforcement procedures. (a) Except where otherwise stated in this part, and to the extent not in conflict with the provisions of this part, the department shall have the same rights and duties given to the Department of Revenue pursuant to Title 67, Chapter 1, Part 14 to enforce the liens established by this part against real or tangible personal property.

(b) The department shall have rulemaking authority to implement the provisions of this part and shall promulgate any rules pursuant to the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5 which are necessary to implement any provisions of the enforcement procedures described in this part or those procedures adapted for the department's use pursuant to Title 67, Chapter 1, Part 14 which relate to the rights and duties necessary to seize and dispose of property subject to the liens imposed in this part to the extent those rights and duties comport with this part and with state and federal laws administering the child support program established pursuant to Title IV-D of the Social Security Act.

(c) The department may contract with the Department of Revenue, or any other state agency or with any private contractor, to provide services related to the seizure and disposition of property subject to the liens established by this part.

SECTION 13. Title 45, Chapter 10, Part 1 of the Tennessee Code Annotated is amended by adding the following as a new, appropriately designated section:

45-10-\_\_\_\_. (a) Notwithstanding any other provisions of any law or regulation to the contrary, a financial institution shall disclose upon request to any Title IV-D child support agency of this State or any other State or territory or the Federal government, their contractors or duly authorized agents, which are seeking to establish, modify, or enforce any child support obligation, any financial information, including, but not limited to assets and liabilities, relative to any person who is the subject of any judicial or administrative action or process which establishes, modifies or enforces child support obligations.

(b) Such access to records upon request of such entities shall include automated access to data bases containing financial information wherever agreements pursuant to Section 14 of this act have been entered between the Department of Human Services and any financial institution.

(c) Notwithstanding the provisions of any other law or regulation to the contrary, any financial institution or any financial institution's contractor which may process any records pursuant to this section which discloses pursuant to this section any financial record to any Title IV-D child support agency of this State or any other State or territory or the Federal government, their contractors or duly authorized agents which are attempting to establish, modify or enforce a child support obligation shall not be liable under any law or regulation of this State to any person for such disclosure and shall be absolutely immune from any

civil or criminal liability for such disclosure in response to the requirements of this section.

(d) A child support enforcement agency which obtains a financial record from a financial institution pursuant to this section or any other provision of law, may disclose such information only as permitted pursuant to the provisions of Section 10 of this act.

(e) For purposes of this section, "financial institution" shall mean:

(1) A depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c);

(2) An institution-affiliated party, as defined in Section 3(u) of such Act (12 U.S.C. 1813(u);

(3) Any Federal credit union or State credit union as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in Section 206 of such Act (12 U.S.C. 1786);

(4) Any benefit association, insurance company, safe deposit company, money-market mutual fund, securities broker/dealer, or similar entity authorized to conduct business in this State;

(f) For purpose of this Section, "financial record" shall have the meaning given such term by Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).

(g) For the production of financial information or financial records, other than those specifically provided in the data match provisions of this act by contract with the financial institution, the department shall pay a reasonable fee not to exceed the actual cost to the financial institution for researching or producing financial records. A reasonable fee shall be deemed to be the lesser of the financial institution's ordinary and customary fees for producing customer records or the fees established by the Federal Reserve Board for the production of records.

SECTION 14. Tennessee Code Annotated, Title 45, is amended by adding the following as a new Chapter:

45-\_\_-\_\_. Operating agreements for data match systems. (a) All financial institutions conducting business in this State shall enter agreements with the Department of Human Services to develop and operate, in coordination with the Department of Human Services, a data match system using automated data exchanges to the maximum extent feasible, to locate, encumber, escrow, seize or surrender the assets of any obligor who owes past-due child support. Each financial institution each calendar quarter will provide the name, record address, social security or other taxpayer identification number, and other identifying information for each obligor maintaining an account at such institution who owes past-due child support as identified by the Department of Human Services or its agents or contractors by that person's name and social security or other taxpayer identification number. In drafting such agreements, the Department of Human Services shall consult with a representative number of financial institutions and shall avoid the imposition of requirements that are not

reasonably compatible with the data processing and recordkeeping systems generally utilized by financial institutions.

(b) All financial institutions conducting business in this State shall enter agreements with the Department of Human Services to encumber, escrow, seize or surrender, as the case may be, in response to a notice of lien or levy by any agency enforcing child support, the assets of any obligor whose assets held by such financial institution are subject to a child support lien pursuant to 42 U.S.C. 666(a)(4). Such agreements shall provide, wherever feasible by automated data exchange, for the automated notice to the financial institution of any liens on such assets of the obligor and shall provide for the automated escrow, seizure or surrender of such assets pending any adjudication by the department of any encumbrance, escrow, seizure or surrender and for the automated transfer of assets to the department or its contractors or agents after completion of such adjudication, or, at the option of the financial institution and with the agreement of the department, the financial institution may furnish information for all account holders at the financial institution from which the department may determine the delinquent child support obligors.

(c) When an administrative order is issued by the Department of Human Services pursuant any provisions of law or regulations or pursuant to agreements entered pursuant to subsections (a) or (b) directing the encumbrance, escrow, seizure or surrender of assets of an obligor consisting of a demand deposit account, or an account accessible by a checking or negotiable order of withdrawal for the purpose of satisfying a lien for past-due child support, the department may direct that only a portion of such accounts, up to the amount necessary to satisfy the existing lien for past-due child support, be encumbered, escrowed, seized or surrendered. If less than the whole amount of the account is sought, the department's order shall direct the financial institution to withhold a specific percentage or a specific dollar amount of those types of accounts.

(d) Such agreements shall provide for the Department of Human Services to pay a reasonable fee to the financial institution for providing account information and for conducting the data match provided in subsection (a), not to exceed the actual costs incurred by the financial institution.

(e) For purpose of this part, the following terms shall have the following meanings unless the context otherwise requires:

(1) "Financial institution" shall mean:

(A) A depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c);

(B) An institution-affiliated party, as defined in Section 3(u) of such Act (12 U.S.C. 1813(u);

(C) Any Federal credit union or State credit union as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including for the purposes of Sections 11 and 12 of this act an institution-affiliated party of such a credit union, as defined in Section 206 of such Act (12 U.S.C. 1786);

(D) Any benefit association, insurance company, safe deposit company, money-market mutual fund, securities



broker/dealer or similar entity authorized to conduct business in this State.

(2) "Account" shall mean a demand deposit account, account accessible by checking or negotiable orders of withdrawal, savings account, time deposit account, or money-market mutual fund account.

45-\_\_-\_\_ Immunity for provision of financial information.

(a) A financial institution, as defined in "Section 45-\_\_-\_\_. Operating agreements for data match systems." subsection (e), or any financial institution's contractor which may process any records pursuant to this chapter, shall be absolutely immune from any civil or criminal liability under common law or under any contract, statute or regulation for:

(1) the disclosure of any information pursuant to this part, for the escrow, encumbrance, seizure or surrender of any assets held by the financial institution in response to a notice of lien or levy issued by any State child support enforcement agency or its contractors or agents, or for any action taken in good faith to comply with the requirements of this part;

(2) subject to subsection (b) hereof, any erroneous disclosure, encumbrance, seizure or surrender made in a good-faith effort to comply with the requirements of this part;

(3) subject to subsection (b) hereof, any good-faith failure to effect, or good-faith delay in effecting, a disclosure, encumbrance, seizure or surrender in compliance with the requirements of this part, if such failure or delay results from an error or from events beyond the control of the financial institution.

(b) Subdivisions (a)(2) and (3) shall apply to erroneous acts or failures to act only if the error from which the act or failure results is an unintentional bona fide error, including but not limited to a clerical or computer malfunction or programming error. In the event of an erroneous act under subdivision (a)(2) or an erroneous or other failure to act under subdivision (a)(3), the financial institution shall, upon discovery thereof, exercise such diligence as the circumstances require.

SECTION 15. Tennessee Code Annotated, Title 36, Chapter 5, is amended by adding the following as a new Part 12:

36-5-1201. (a) The Title IV-D child support enforcement agency of this State may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of support order which request shall:

(1) include such information as will enable the State to which the request is transmitted to compare the information about the case to the information in the data bases of the receiving state; and

(2) constitute certification by this State of:

(A) the amount of support under the order the payment of which is in arrears; and

(B) that the requesting state has complied with all procedural due process requirements applicable to the case.

(b) A request made by another state in a manner consistent with subsection (a) shall have the same effect as provided in subdivision (a)(2).

(c) The Title IV-D child support enforcement agency of this State shall respond within five (5) business days to a request made by another state's child support enforcement agency. "Business day" for purposes of this part shall mean a day on which State offices are open for regular business.

(d) The provision of assistance by the other state to the Title IV-D agency of this State shall not be considered a transfer of the case to the caseload of the other state, and a request by the other state for assistance under this section shall not be deemed to be a transfer of a case to the Title IV-D agency of this State.

(e) The Title IV-D child support enforcement agency of this State shall maintain records of:

(1) the number of such requests for assistance received by it;

(2) the number of cases for which this State collected in response to such requests; and,

(3) the amount of collected support.

SECTION 16. Tennessee Code Annotated, Title 36, Chapter 5, is amended by adding the following as a new Part 10:

Section 36-5-1001. Appeals of administrative actions by the Department of Human Services; Scope.--(a)(1) An appeal which is permitted by state or federal law or regulations for actions of the Department of Human Services relative to Title IV-D child support services involving the following actions of the department shall be processed as provided in subsection (b) and (c) and §§ 36-5-1002 through 36-5-1006:

(A) a request for information or records, an administrative order or an administrative subpoena issued pursuant to Title 36, Chapter 5, Part 8;

(B) an income withholding order pursuant to Title 36, Chapter 5, Part 5;

(C) notice of enrollment of a child for health insurance coverage upon a change of employers by a party pursuant to § 36-5-101(f)(2), Title 36, Chapter 2, Part 1 or § 37-1-151;

(D) review and adjustment of child support orders pursuant to § 36-5-103;

(E) the enforcement by administrative orders of liens for child support pursuant to Title 36, Chapter 5, Part 9;

(F) income tax refund intercepts pursuant to 45 C.F.R. 303.72;

(G) credit information reports pursuant to Section 21 of this act, and

(H) distributions of support collections.

(b) Except as otherwise stated in subsections (c) and the following subsections, the hearings in subsection (a) shall be conducted pursuant to the provisions for contested case hearings as provided in Title 4, Chapter 5, Part 3.

(c) The person seeking administrative review of the department's actions pursuant to subsection (a) shall file a written request with the department for an administrative hearing within fifteen (15) calendar days of the date of the notice of an administrative action pursuant to this part as defined by the department.

36-5-1002. Scope of Administrative Review.--Notwithstanding any other law to the contrary, the scope of administrative review of the orders at the administrative hearing provided by § 36-5-1001 shall be limited to a determination of the correct identity of the person(s) or entity(ies) to whom or to which the administrative action is directed, to whether there is a mistake of fact involving the action, and, is further limited to the following specific issues set forth in the following subsections:

(a) An administrative subpoena for records or request for information or records, pursuant to Title 36, Chapter 5, Part 8 shall be modified or overturned by the hearing officer only upon a showing by clear and convincing evidence of arbitrary or capricious action in the issuance of the administrative subpoena or request or unless there is clear and convincing evidence that the best interests of the child or the child's caretaker would be jeopardized by the execution of the administrative subpoena or request, or that there is clear and convincing evidence that compliance with the request or administrative subpoena, would constitute a clear violation of law.

(b) Review of administrative orders for parentage tests pursuant to § 36-5-802 shall be limited to a determination of whether the department's order was arbitrary or capricious.

(c) Review of administrative orders pursuant to § 36-5-803 to redirect child support is limited to whether the case upon which the redirection order has been issued is a Title IV-D case.

(d) Review of administrative orders pursuant to § 36-5-804 to direct additional payments of child support shall be limited to a determination of whether the order is a reasonable amount which would eliminate the arrearage within a reasonable amount of time.

(e) Review of income withholding orders pursuant to § 36-5-501 is limited to:

(1) a determination of the amount of arrearage;

(2) whether the amount of payments on the arrearage, if the amount of payments were not previously ordered by the court, is

reasonable as to the amount to be paid and the time over which the obligation is to be paid; and

3) whether the withholding of income was otherwise appropriate pursuant to the conditions of § 36-5-501;

(f) Review of a notice of enrollment of a child for health insurance coverage upon a change of employers by a party pursuant to § 36-5-101(f)(2), or Title 36, Chapter 2, Part 1 or § 37-1-151 shall be limited to a determination of the reasonableness of the cost of the insurance;

(g) Review of the adjustment of child support orders pursuant to § 36-5-103 shall be limited to a determination of the appropriate application of the methods of adjustment of the order of support pursuant to § 36-5-103 which have been utilized by the department based on the income of the parties and based upon any circumstances which should permit deviation from the amount and which is justified by the application of those methods.

(h)(1) Review of the enforcement by administrative orders of liens for child support pursuant to Title 36, Chapter 5, Part 9 shall be limited to:

(A) the correct amount of the obligation;

(B) the extent of the obligor's interest in the assets; and

(C) whether good cause exists not to seize, sell, distribute or otherwise dispose of all or a part of such assets.

(2) Upon review pursuant to the standards of subdivision (1), the hearing officer may direct that there is a mistake as to the identity or interest of the person whose assets have been seized and dismiss the order, or may direct that all or only a portion of the assets be disposed of, or that there be some other order for the disposition of the assets of the obligor in order to satisfy the child support arrearage.

(3) The department's hearing officer or the reviewing court may grant any relief of preliminary or temporary nature relative to the obligor's assets as may be appropriate under the circumstances pending the entry of the final order.

(i) Review of income tax refund intercepts shall be conducted pursuant to the department's existing rules or as they may be further amended.

(j) Review of reports of credit status shall be limited to the extent of the amount of current support and amount of arrears to be reported to the credit bureau.

(k)(1) Administrative review of the distribution of collections shall not be conducted until such time as the party seeking redress has contacted the customer service unit in the department's State office for a conciliation process in which the customer service unit shall have thirty (30) days to resolve the issues. If the issues have not been resolved within thirty (30) days of the initiation of such effort, the customer service unit shall notify the person who sought conciliation and the person shall have the right to seek administrative review pursuant to this part.

(2) Review of distribution actions of the department shall be limited to a determination of the adequacy of efforts to resolve the issues pursuant to the provisions of subdivision (1) and the amount of support which is properly credited to the appellant.

(l) The hearing officer may not forgive any support arrearages upon review of any of the department's administrative orders.

(m)(1) The record of child support as certified by the clerk of the court or as shown by the department's child support computer system shall be admissible without further foundation testimony and shall constitute a rebuttable presumption as to the amount of support which is in arrears and which is owed by the obligor in any review pursuant to this part.

(2) If submitted to the opposing party ten (10) days prior to the administrative hearing, the affidavit of a keeper or custodian of any other records, including, but not limited to, the records of any financial institution or the Department of Human Services or any other government or private entity, concerning any matter before the hearing officer shall be admitted by the hearing officer unless an objection thereto is submitted five (5) days prior to the hearing. If an objection is filed and is upheld by the hearing officer, the hearing officer shall continue the case to permit the taking of any further testimony which may be necessary to resolve the issues.

(3) In order to expedite the review of these matters, the hearing officer shall have discretion to take testimony of any party or witness by telephone or video or other electronic technology, and documents may, in the hearing officer's discretion, be submitted by facsimile transmission or by any other electronic technology.

36-5-1003. Judicial Review of Administrative Actions.--(a) Notwithstanding any other law to the contrary, the judicial review of the administrative hearing decisions of the Department of Human Services pursuant to this part shall be conducted by the court having jurisdiction of the support order as otherwise provided by § 4-5-322.

(b) If any administrative action of the department pursuant to this part is not based upon an existing order of support or paternity, the party seeking judicial review shall file the petition for review of the department's actions in the Chancery Court of the county of the person's residence, or the county where an entity was served with an administrative subpoena or was notified of a request for information. If the department is enforcing any order of a Title IV-D agency of any other state and there has been no assumption of jurisdiction of the support order by a Tennessee court, the petition for judicial review shall be filed in the county of the residence of the person in Tennessee against whom the request, administrative order or administrative subpoena is issued or the county where an entity was served with an administrative order, administrative subpoena or was notified of a request for information. No judicial review may result in the forgiveness of any support arrearages.

(c) The judicial review shall be limited to the review of the record of the department's hearing as otherwise provided in § 4-5-322.

36-5-1004. Non-interference with department's actions; injunctive relief.-  
- No person or entity who has been served with an administrative order,

administrative subpoena, or request for information or records shall take any measures to defeat the administrative action of the department during the pendency of the review of such action by the administrative hearing officer or by the reviewing court, and the department or its contractor may seek injunctive relief to prevent any actions which would defeat its administrative actions.

36-5-1005. Liability for fees and costs--The individual or entity to whom or to which the administrative order, administrative subpoena or request is issued pursuant to this part and which is enforced by the reviewing court shall be liable for all costs of the court proceedings and shall be liable to the department for the cost of any private, contract or government attorney representing the State and for the time of any of its Title IV-D State office staff or contractor staff utilized in litigating the administrative order, administrative subpoena or request.

36-5-1006. Rules and Regulations.--The department shall have authority to promulgate rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5 to implement the provisions of this part.

SECTION 17. Tennessee Code Annotated, Section 36-5-501 is amended by deleting the section in its entirety and by substituting instead the following:

36-5-501. Income withholding. (a)(1) For any order of child support issued, modified, or enforced on or after July 1, 1994, the court shall order an immediate assignment of the obligor's income, including but not necessarily limited to: wages, salaries, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, profit sharing, interest, annuities, and other income due or to become due to the obligor. The order of assignment shall issue regardless of whether support payments are in arrears on the effective date of the order. The court's order, shall include an amount sufficient to satisfy an accumulated arrearage, if any, within a reasonable time. The order may also include an amount to pay any medical expenses which the obligor owing the support is obligated or ordered to pay. Withholding shall not exceed fifty percent (50%) of the employee's income after FICA, withholding taxes, and a health insurance premium which covers the child, are deducted. The order shall also include an amount necessary to cover the fee due the clerk of the court or the department, if appropriate. In the event the court does not order an immediate assignment pursuant to subdivision (2), every order shall be enforceable by income assignment as provided in this chapter.

(2) Income assignment under this subsection shall not be required:

(A) If, in cases involving the modification of support orders, upon proof by one party, there is a written finding of fact in the order of the court that there is good cause not to require immediate income assignment and the proof shows that the obligor has made timely payment of previously ordered support. "Good cause" shall only be established upon proof that the immediate income assignment would not be in the best interests of the child. The court shall, in its order, state specifically why such assignment will not be in the child's best interests; or

(B) If there is a written agreement by both parties that provides for alternative arrangements. Such agreement must be reviewed by the court and entered in the record.

(C) If the case is being enforced under Title IV-D and is subject to an assignment of support due to receipt of public assistance, the Department of Human Services or its contractor must be notified of the request for exemption under subdivisions (2)(A) and (2)(B) and may present evidence for purposes of subdivision (2)(A), or must agree in order to permit exemption from income withholding as otherwise permitted pursuant to subdivision (2)(B).

(3) In any case, regardless of whether income withholding is ordered, in which a parent is required by a court order to provide health coverage for a child, and the parent is eligible for family health coverage through an employer doing business in the State, the clerk, or the department, by income withholding order, shall order withheld from the parent's compensation from the parent's employer the employee's share, if any, of premiums for such health coverage and the employer shall pay such share of premiums to the insurer.

(b)(1)(A) In all cases in which the court has ordered immediate income assignment, the clerk of the court, or the Department of Human Services or its contractor in Title IV-D cases, shall immediately issue an income assignment to an employer once the employer of an obligor has been identified.

(B) In all cases in which an immediate assignment of income has not been previously ordered, or in which an obligor who is ordered to pay child support in which an immediate income assignment was not required pursuant to subsection (a)(2) of this section, and when the obligor becomes in arrears as defined in this subdivision as reflected in the records of the clerk of court, if the support is paid through the clerk's office or in the records of the Department of Human Services, then the clerk of the court, or the Department of Human Services or its contractor in Title IV-D child support cases shall, without the necessity of an affidavit of the obligee, issue an order of income assignment to the employer of the obligor, if known, or at such time as the employer's name and whereabouts are made known to the clerk or the department or its contractor. No court order expressly authorizing an income assignment shall be required under this paragraph.

(C) The order of assignment issued by the department or its contractor pursuant to subdivisions (1)(A) and (1)(B) shall include an amount sufficient to satisfy an accumulated arrearage within a reasonable time without further order of the court. The order shall also include an amount to pay any medical expenses which the obligor owing the support is obligated or ordered to pay. Withholding shall not exceed fifty percent (50%) of the employee's income after FICA, withholding taxes, and a health insurance premium which covers the child, are deducted. The order shall also include an amount necessary to cover the fee due the clerk of the court, if appropriate.

(D) In all other cases in which the child support payments were ordered to be paid directly to a parent or guardian or custodian of the child or children, and the child

support payments are in arrears as defined in this subdivision, the parent, guardian or custodian may, by affidavit filed with the clerk, or, the department or its contractor in Title IV-D child support cases, request that an order of income assignment be sent by the clerk of the court, or by the department, to the employer, if known, or at such time as the employer's name and whereabouts are made known to the clerk, the department or its contractor.

(E) The order of assignment issued by the clerk or the department or its contractor pursuant to subdivision (1)(D) shall include an amount sufficient to satisfy an accumulated arrearage within a reasonable time. The order may also include an amount to pay any medical expenses which the obligor owing the support is obligated or ordered to pay. Withholding shall not exceed fifty percent (50%) of the employee's income after FICA, withholding taxes, and a health insurance premium which covers the child, are deducted. The order shall also include an amount necessary to cover the fee due the clerk of the court, if appropriate.

(F) An income assignment pursuant to this subsection shall be mandatory even if subsequent to the issuance of the order of assignment the obligor pays the amount of arrearage in part or in full as long as current support or arrearages are still owed.

(G) For purposes of this part, "arrears" means any occasion on which the full amount of ordered support ordered for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent the spousal support would be included for the purposes of 42 U.S.C. 654A(4), is not paid by the due date for arrears as defined in § 36-5-101(a)(5) unless an income assignment is in effect and the payor of income is paying pursuant to subsection (g).

(H) Clerks of court are authorized to issue an order of income assignment to the employer of the obligor and to institute the process to assign income when the obligor fails to pay court costs, but shall not have priority over the income assignment for child support.

(2) When an order of income assignment has been issued pursuant to subdivision (b)(1)(B), the clerk, or the department in Title IV-D cases, shall send a notice to the obligor within two (2) business days of the issuance of the order of income assignment being sent to the obligor's employer. The notice must be sent to the address of the obligor, if known or to the obligor at the address of the employer of the obligor if the obligor's address is unknown.

(3) In addition to any other required or pertinent information, all notices of assignment sent to the obligor pursuant to this section shall include:

(A) The amount of money owed by the obligor, including both current support and arrears;



(B) The amount of income withholding, except where otherwise ordered by the court, which shall be applied for current support, the amount which shall be applied for arrearages and the amount to be applied for alimony. The amount withheld shall be an amount reasonably sufficient to satisfy an accumulated arrearage within a reasonable time;

(C) Notice that the obligor has the right to a hearing before the court, or, in Title IV-D cases, an administrative review by the Department of Human Services. The administrative hearing shall be conducted pursuant to the provisions of Section 16 of this act.

(D) That the obligor must request the hearing by notifying the clerk, or the department in Title IV-D cases, within fifteen (15) days of the date of the notice, or the date of personal service, if used.

(E) The information contained in subsections (c), (d) and (e); and

(F) All information provided to the employer in subsections (f)-(l).

(c)(1) In the event the obligor requests a hearing in cases not being enforced pursuant to Title IV-D regarding the withholding as provided in subdivisions (b)(1)(B) within fifteen (15) days of the date of the notice, or the date of personal service, if used, the clerk shall promptly docket the case with the referee or court as provided by Part 4 of this chapter, shall give notice to all parties, and shall take any other action as is necessary to ensure that the time limits provided in subsection (d) are met.

(2) If the withholding was issued by the department or its contractor in Title IV-D cases and the obligor requests an administrative hearing as permitted by Section 16 of this act, the department shall promptly schedule the case for a hearing, shall give notice to all parties, and shall take any other action as is necessary to ensure that the time limits provided in subsection (d) are met.

(d) In all cases in which the obligor requests a hearing or administrative review, the referee or court, or the department, shall conduct a hearing and make a determination, and the clerk or department shall notify the obligor and the employer of the decision within forty-five (45) days of the date of the order provided in subdivision (b)(1).

(e) The obligor may contest the results of the department's administrative review by requesting a judicial review as provided in Section 16 of this act.

(f) The amount to be withheld under the income assignment withheld for support may not be in excess of fifty percent (50%) of the income due after FICA, withholding taxes, and a health insurance premium which covers the child are deducted.

(g) The assignment or any subsequent modification is binding upon any employer, person or corporation, including successive employers, fourteen (14)

days after mailing or other transmission or personal service of the order from the clerk of the court or the department by the order of assignment and the amount withheld must be sent to the clerk or the department, or if based upon a direct withholding from another state pursuant to the Uniform Interstate Family Support Act shall be sent to the other state as directed by that order of assignment, within seven (7) days of the date the employee is paid or the date the obligor is to be paid or the date the amount due the obligor is to be credited, and is binding until further notice. The employer, person or corporation must notify the clerk or the department or the entity in the other state to which the withheld income was to be sent of the date of termination of employment or income payments and provide the clerk or the department with the individual's last known address and name and address of the new employer or source of income, if known.

(h) It is unlawful for an employer to use the assignment as a basis for discharge or any disciplinary action against the employee. Compliance by an employer, other person, institution or corporation with the order shall operate as a discharge of the liability of such employer, other person, institution or corporation to the affected individual as to that portion of the income so affected. If the employer, other person, institution or corporation fails to comply with the notice, such employer, other person, institution or corporation is liable for any amounts up to the accumulated amount which should have been withheld. An employer shall be subject to a fine for a Class C misdemeanor if the income assignment is used as a basis to refuse to employ a person or to discharge the obligor/employee or for any disciplinary action against the obligor/employee or if the employer fails to withhold from the obligor's income or to pay such amounts to the clerk or to the department as may be directed by the withholding order.

(i)(1) An assignment under this section shall take priority over any other assignment or garnishment of wages, as described in Title 26, Chapter 2, or salary, commissions or other income, except those deductions made mandatory by law or hereafter made mandatory.

(2)(A) If the employer, person, corporation or institution receives more than one (1) order of income assignment against an individual, he must comply by giving first priority to all orders for amounts due for current support due a child, second to all orders for amounts due for arrearages due a child, third to all orders for amounts due for current support due a spouse, and fourth to all orders for amounts due for arrearages due a spouse, and must honor all withholdings to the extent the total amount withheld from wages does not exceed fifty percent (50%) of the employee's wages after FICA and withholding taxes and a health insurance premium which covers the child are deducted.

(B) Any employer, person or entity receiving an order for income withholding from another state or territory shall apply the income withholding law of the State of the obligor's principal place of employment in determining:

(i) the employer's fee for processing an income withholding order;

(ii) the maximum amount permitted to be withheld from the obligor's income;

(iii) the time periods within which the employer must implement the income withholding order and forward the child support payment;

(iv) the priorities for withholding and allocating income withheld for multiple child support obligees; and

(v) any withholding terms and conditions not specified in the order.

(C) The "principal place of employment" for an obligor who is employed in this State and for whom an income withholding order has been received in this State from another State or territory shall be deemed to be this State, and the provisions set forth in the requirements of this section regarding income withholding shall apply to the determinations made in (B)(i)-(v).

(3)(A) If any employer, person, or other entity receives any income assignment for current support against an individual which would cause the deduction from any two (2) or more assignments for current support to exceed fifty percent (50%) of the individual's income after FICA, withholding taxes, and a health insurance premium which covers the child are deducted, then the allocation of all current support ordered withheld by all income assignments they receive against that individual shall be determined by the employer, person, or entity as follows:

(i) The employer, person, or other entity shall determine the total dollar amount of the assignments for current support it has received involving the obligor to whom it owes any wages, salaries, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, profit sharing, interest, annuities, and other income due or to become due to the obligor;

(ii) Each individual assignment shall then be calculated as a percentage of the total obtained pursuant to subdivision (i)(3)(A)(i);

(iii) The employer, person, or entity shall then allocate the available income of the obligor, subject to the limits described above, based on the percentage computation pursuant to subdivision (i)(3)(A)(ii) and shall, as directed by the order of income assignment, pay the amounts withheld from the obligor's income, to the clerk or clerks, or to the department, its contractor, or other entity or Title IV-D child support agency in any other state which issued such order.

(B) In the event all current support obligations are met from the assignments and support arrearages exist in more than one (1) case and there is not sufficient income to pay all ordered support arrearage, then the support arrearages shall be allocated on the same basis as set forth in subdivision (i)(3)(A).

(C) The obligor shall be responsible for seeking any modifications to the existing orders for support.

(4) An employer, person, corporation or institution may make one (1) payment to the clerk of the court, the department its contractor or other entity in another state so long as the employer separately identifies the portion of the single payment attributable to each individual obligor parent, and, if amounts are included which represent withholdings for more than one (1) pay period, so long as the amounts representing each pay period are separately identified.

(j) "Employer, person, corporation or institution," as used in this section, includes the federal government, the State and any political subdivision thereof and any other business entity which has in its control funds due to be paid to a person who is obligated to pay child support.

(k) Any employer, person, corporation or institution which is ordered to pay an income assignment on behalf of an individual may charge the obligor parent an amount of up to five percent (5%) not to exceed five dollars (\$5.00) per month for such service.

(l) The notices and orders required to be issued pursuant to this section shall be transmitted to any party or person by any method chosen by the court or the department, including but not limited to: certified mail, return receipt requested, regular mail, electronic mail, facsimile transmission, or by personal service, and may be generated by computer or on paper. The notices and orders required by this section need not be entered in the minutes of the court. If a notice or order is returned or otherwise not deliverable, then service shall be had by any alternative method chosen by the court or the department, as listed in this subsection. Before taking action against an employer or other payor for failure to comply with this part, the court or department shall ensure that service of the notice was made by certified mail or by personal service. Electronically reproduced signatures shall be effective to issue any orders or notices pursuant to this section.

(m) There shall be no litigation tax imposed on proceedings pursuant to this part.

(n)(1) The Department of Human Services shall have authority to establish mandatory rules, forms, and any necessary standards and procedures to implement income assignments which shall be used by all the courts and by the department pursuant to this part. The Department of Human Services may implement the use of such forms at any time following passage of this act by public necessity rule following approval by the Attorney General and Reporter. Permanent rules implementing the forms shall be promulgated pursuant to the rulemaking provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(2) Prior to the filing of a notice of rulemaking for permanent rules pursuant to this subsection, the rules shall be sent by the department for review by an advisory group composed of two (2) representatives of the State Court Clerks' conference appointed by the President of the State Court Clerks' Association, two (2) representatives of the Judges of Courts which have child support responsibilities one of whom will be appointed by the Chief Justice of the Supreme Court and one of whom will be appointed by the President of the Council of

Juvenile and Family Court Judges, a representative of the administrative office of the courts, and two (2) representatives of the Department of Human Services designated by the commissioner. Nothing contained herein shall be construed to prevent the department from filing any notice of rulemaking prior to or at the time the proposed permanent rules are sent to the advisory group where the department determines that immediate filing of the notice without prior review by the advisory group is necessary to meet any requirements relative to the potential expiration of public necessity or emergency rules or to comply with any federal statutory or regulatory requirements or any federal policy directives.

SECTION 18. Tennessee Code Annotated, Section 36-5-502 is repealed.

SECTION 19. Tennessee Code Annotated, Section 36-5-101 is amended by deleting subdivision (a)(4)(B) in its entirety and by substituting instead the following:

(B)(i) When the court enters an order in which the paternity of a child is determined or support is ordered, enforced or modified for a child, each individual who is a party to any action pursuant to this part shall be immediately required to file with the court and, if the case is a Title IV-D child support case, shall immediately file with the local Title IV-D child support office and shall update, as appropriate, the party's:

(I) Full name and any change in name;

(II) Social security number and date and place of birth;

(III) Residential and mailing addresses;

(IV) Home telephone numbers;

(V) Driver's license number;

(VI) The name, address, and telephone number of the person's employer; and,

(VII) The availability and cost of health insurance for the child.

The requirements of this subdivision may be included in the court's order.

(ii) Each individual who is a party must update changes in circumstances of the individual for the information required by subdivision (B)(i) within ten (10) days of the date of such change. At the time of the entry of the first order pertaining to child support after the effective date of this act, clear written notice shall be given to each party of the requirements of this subsection, procedures for complying with the subsection and a description of the effect or failure to comply. Such requirement may be noted in the order of the court.

(iii) In any subsequent child support enforcement action, the delivery of written notice as required by Tennessee Rule of Civil Procedure 5 to the most recent residential or employer address shown in the court's records or the Title IV-D agency's records as required in (B)(i) shall be deemed to satisfy due process requirements for notice and service of process with respect to that party if there is a sufficient

showing and the court is satisfied that a diligent effort has been made to ascertain the location and whereabouts of the party.

(iv) Upon motion of either party, upon a showing of domestic violence or the threat of such violence, the court may enter an order to withhold from public access the address, telephone number, and location of the alleged victims(s) or threatened victims of such circumstances. The clerk of the court shall withhold such information based upon the court's specific order but may not be held liable for release of such information.

SECTION 20. Tennessee Code Annotated, Section 37-1-151(b) is amended by deleting subdivision (b)(4)(C) in its entirety and by substituting instead the following:

(C) When the court enters an order in which the paternity of a child is determined or support is ordered, enforced or modified for a child, each individual who is a party to any action pursuant to this part shall be immediately required to file with the court and, if the case is a Title IV-D child support case, shall immediately file with the local Title IV-D child support office and shall update, as appropriate, the party's:

- (i) Full name and any change in name;
- (ii) Social security number and date and place of birth;
- (iii) Residential and mailing addresses;
- (iv) Home telephone numbers;
- (v) Driver's license number;
- (vi) The name, address, and telephone number of the person's employer; and,
- (vii) The availability and cost of health insurance for the child.

The requirements of this subdivision may be included in the court's order.

(D) Each individual who is a party must update changes in circumstances of the individual for the information required by subdivision (4)(C) within ten (10) days of the date of such change. At the time of the entry of the first order pertaining to child support after the effective date of this act, clear written notice shall be given to each party of the requirements of this subsection, procedures for complying with the subsection and a description of the effect or failure to comply. Such requirement may be noted in the order of the court.

(E) In any subsequent child support enforcement action, the delivery of written notice as required by Tennessee Rule of Civil Procedure 5 to the most recent residential or employer address shown in the court's records or the Title IV-D agency's records as required in (4)(C) shall be deemed to satisfy due process requirements for notice and service of process with respect to that party if there is a sufficient showing and the court is satisfied that a diligent effort has been made to ascertain the location and whereabouts of the party.

(F) Upon motion of either party, upon a showing of domestic violence or the threat of such violence, the court may enter an order to withhold from public

access the address, telephone number, and location of the alleged victims(s) or threatened victims of such circumstances. The clerk of the court shall withhold such information based upon the court's specific order but may not be held liable for release of such information.

SECTION 21. Tennessee Code Annotated, Section 36-5-106, is amended by deleting the Section in its entirety and by substituting instead the following language:

(a) The Department of Human Services or any of its Title IV-D child support contractors shall report periodically to consumer reporting agencies (as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), the name of any noncustodial parent, of which the department or its Title IV-D contractors has a record, who is either current in payments of support or who is delinquent in the payment of support and the amount of the current obligation or delinquent support owed by such parent. Such information shall only be furnished to an entity which furnishes evidence to the Department of Human Services that it meets the requirements to be defined as a consumer reporting agency pursuant to the Fair Credit Reporting Act.

(b) For purposes of this section, "delinquent" shall mean any occasion on which the full amount of ordered support ordered for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent the spousal support would be included for the purposes of 42 U.S.C. 654A(4), is not paid by the due date for arrears as defined in § 36-5-101(a)(5) unless an income assignment is in effect and the payor of income is paying pursuant to § 36-5-501(g).

(c) Reports of delinquent support shall be made only after the noncustodial parent has been notified of the intended action at the last record address required by Sections 11, 19 and 20 of this act or such other address as may be known to the department, and the noncustodial parent is afforded an opportunity for an administrative hearing before the department to contest the accuracy of such information. The noncustodial parent shall file a written request for appeal of the intended actions as provided by Section 16 of this act.

SECTION 22. Tennessee Code Annotated, Section 36-5-101(f) is amended by designating the current language as subdivision (1) and by adding the following new subdivisions:

(2) In any case in which the court enters an order of support in a case enforced under Title IV-D of the Social Security Act, the court shall enter an order providing for health care coverage to be provided for the child or children.

(3)(A) When, pursuant to subdivision (2), the party ordered to pay health care coverage changes employment and the new employer provides health care coverage, the Department of Human Services shall transfer notice of such provision to the new employer and to the party. This notice shall operate to enroll the child in the health care plan of the party ordered to pay child support except as provided in subdivision (3)(B).

(B) The notice to the party shall contain a statement of the right to contest the notice as provided by Section 16 of this act and enrollment of the child in the employer's health plan and the procedure for filing an administrative appeal with the Department of Human Services. The notice shall direct the party to file with the employer a copy of the appeal request within fifteen (15) days of the date of mailing of the notice as

recorded in the records of the department. Upon such timely filing with the employer and the timely filing of an administrative appeal with the department, the insurance coverage for the child shall not become effective until the determination of the administrative appeal by the department.

SECTION 23. Tennessee Code Annotated, Title 36, Chapter 2, Part 1 is amended by adding the following as a new section:

(a) In any case in which the court enters an order of support in a case enforced under Title IV-D of the Social Security Act, the court shall enter an order providing for health care coverage to be provided for the child or children.

(b) When the party ordered to pay health care coverage changes employment and the new employer provides health care coverage, the Department of Human Services shall transfer notice of such provision to the new employer and to the party. This notice shall operate to enroll the child in the health care plan of the party ordered to pay child support except as provided in subsection (c).

(c) The notice to the party shall contain a statement of the right to contest the notice as provided by Section 16 of this act and enrollment of the child in the employer's health plan and the procedure for filing an administrative appeal with the Department of Human Services. The notice shall direct the party to file with the employer a copy of the appeal request within fifteen (15) days of the date of mailing of the notice as recorded in the records of the court or the department. Upon such timely filing with the employer and the timely filing of an administrative appeal with the department, the insurance coverage for the child shall not become effective until the determination of the administrative appeal by the department.

SECTION 24. Tennessee Code Annotated, Section 37-1-151(b) is amended by adding the following as new subdivision (4)(G):

(G)(i) When a party ordered to pay health care coverage in cases being enforced under Title IV-D of the Social Security Act changes employment and the new employer provides health care coverage, the Department of Human Services shall transfer notice of such provision to the new employer and to the party. This notice shall operate to enroll the child in the health care plan of the party ordered to pay child support except as provided in subdivision (4)(G)(ii).

(ii) The notice to the party shall contain a statement of the right to contest the notice as provided in Section 16 of this act and enrollment of the child in the employer's health plan and the procedure for filing an administrative appeal with the Department of Human Services. The notice shall direct the party to file with the employer a copy of the appeal request within fifteen (15) days of the date of mailing of the notice as recorded in the records of the court or the department. Upon such timely filing with the employer and the timely filing of an administrative appeal with the department, the insurance coverage for the child shall not become effective until the determination of the administrative appeal by the department.

SECTION 25. Tennessee Code Annotated, Section 36-5-101 is amended by deleting subsection (o) in its entirety and by substituting instead the following language:



(o)(1) In enforcing any provision of child support, if an obligee, or the department or its contractor in Title IV-D cases, specifically prays for revocation of a license because an obligor is alleged to be in noncompliance with an order of support, or if the court determines on its own motion or on motion of a party that any individual party has failed to comply with a subpoena or a warrant in connection with the establishment or enforcement of an order of support, the court may find specifically in its order that the obligor is not in compliance with an order of support as defined by Part 7 of this chapter, or it may find that an individual party has failed to comply with a subpoena or warrant in connection with the establishment or enforcement of an order of support, and may direct that any or all of the obligor's or individual party's licenses be subject to revocation, denial or suspension by the appropriate licensing authority pursuant to Part 7 of this chapter. The court shall direct the clerk to send a copy of that order to the Department of Human Services to be sent by the department to each licensing authority specified in the order for processing and suspension, denial or revocation pursuant to § 36-5-706 and any other applicable provisions of Part 7 of this chapter. Costs related to such order shall be taxed to the obligor or individual party.

(2) If the obligor whose license has been subject to the provisions of subdivision (1) complies with the order of support, or if the individual party complies with the subpoena or warrant, the court shall enter an order making such a finding and the clerk shall send an order immediately to the Department of Human Services to be transmitted to each licensing authority specified in the order which shall then immediately issue, renew or reinstate the obligor's or individual party's license in accordance with the provisions of § 36-5-707. Costs related to such order shall be taxed to the obligor or individual party as the case may be and shall be paid by the obligor or the individual party prior to sending the order to the Department of Human Services for transmission to the licensing authority.

(3) The Department of Human Services shall provide available information to the obligee or party or the court in actions under this subsection concerning the name and address of the licensing authority or authorities of the obligor or individual party in order to enable the enforcement of the provisions of this subsection. The obligee or individual party, as the case may be, seeking such information shall pay a fee as established by the department for the provision of such service. These fees may be taxed as costs to the obligor whose license has been revoked pursuant to this subsection or to the individual party who has failed to comply with the warrant or subpoena.

(4) If the licensing authority fails to take appropriate action pursuant to the orders of the court under this subsection, the party may seek a further order from the court to direct the licensing authority to take such action and the party may seek any appropriate court sanctions against the licensing authority.

(5) For purposes of this subsection, the term "individual party" means a party to the support action who is a person, but does not include a governmental agency or the contractor or agent of such governmental agency which is enforcing an order of support. The term "party" may include, where the context requires, an individual person or it may include a governmental agency or contractor or agent of such governmental agency.

SECTION 26. Tennessee Code Annotated, Title 36, Chapter 2, Part 1 is amended by adding the following as a new, appropriately designated section:

In establishing paternity or enforcing any provision of child support, if the party seeking to establish paternity or to enforce an order of support specifically prays for revocation of a license, or if the court determines on its own motion or on motion of the party seeking to establish paternity or seeking to enforce an order of support that an individual party has failed to comply with a subpoena or a warrant in connection with the establishment of paternity or enforcement of an order of support, the court may invoke the provisions of § 36-5-101(o).

SECTION 27. Tennessee Code Annotated, Section 37-1-151 is amended by adding the following as a new, appropriately designated subsection:

( ) In establishing or enforcing any provision of child support, if the party seeking to establish or to enforce an order of support specifically prays for revocation of a license, or if the court determines on its own motion or on motion of the party seeking to establish or seeking to enforce an order of support that an individual party has failed to comply with a subpoena or a warrant in connection with the establishment or enforcement of an order of support, the court may invoke the provisions of § 36-5-101(o).

SECTION 28. Tennessee Code Annotated, Section 36-5-103 is amended by adding the following as a new subsection:

( )(1)(A) Upon the request of either parent, or, if there is an assignment of benefits under Title 71, Chapter 3, Part 1, upon request of the Department of Human Services or either parent, any order subject to enforcement pursuant to Title IV-D of the Social Security Act by any court under this Title or Title 37 shall be reviewed at least every three (3) years, and, if necessary, adjusted in accordance with the guidelines established pursuant to § 36-5-101(e) if the amount of the child support order in the existing order differs from the amount that would be awarded in accordance with the guidelines. No substantial change in circumstances of the parties is necessary to conduct a review pursuant to this subdivision.

(B) The review and the adjustment in subdivision (1)(A) may be conducted by the court, or by the Department of Human Services by the issuance of an administrative order by the department or its contractors.

(2) As an alternative to the method described in subdivision (1) for review and adjustment, the child support order may be reviewed, and the order may be adjusted by an administrative order issued by the department or its contractors by:

(A) Applying a cost-of-living adjustment to the order in accordance with a formula developed by the department; or

(B) Using automated methods, including automated comparisons with wage data to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment based upon a threshold developed by the department.

(C) The methods of adjustment of orders in subdivisions (2)(A) and (2)(B) shall be incorporated in the department's rules.

(3) The requirement for review and adjustment may be delayed if the best interest of the child require. Such interest would include the threat of

physical or emotional harm to the child if the review and adjustment were to occur or the threat of severe physical or emotional harm to the child's custodial parent or caretaker.

(4) A copy of an administrative order of adjustment of the child support order shall be sent to the clerk of the court which has jurisdiction of the child support order which has been administratively adjusted and it shall be filed in the court record. A copy of the order shall be sent to the obligor and the obligee by the department.

(5) If an order of support is adjusted by administrative order pursuant to this section, the obligor and obligee shall have a right to administratively appeal the adjustment by requesting the appeal as provided in Section 16 of this act.

(6) Notwithstanding the provisions of § 36-5-101(a)(1) permitting a change in a child support order based only upon a significant variance as established by the child support guidelines, if there has been a substantial change of circumstances demonstrated by the requesting party within the three (3) year period in a case being enforced pursuant to Title IV-D of the Social Security Act, the case shall be reviewed, and adjusted, if appropriate, in accordance with the guidelines pursuant to § 36-5-101(e).

(7) Notice of the right to request a review, and, if appropriate, adjust the child support order shall be sent to the obligor and the obligee by the department at least every three (3) years for a child subject to an order being enforced pursuant to Title IV-D of the Social Security Act. The notice may be included in the order.

(8) The department shall have rulemaking authority to implement the provisions of this subsection pursuant to the provisions of the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5.

SECTION 29. Tennessee Code Annotated, Title 36, Chapter 5 is amended by adding the following as a new part:

36-5-1301. Inclusion of social security numbers on certain licenses. Notwithstanding any other provision of the law to the contrary, all applications for professional licenses, commercial driver's licenses, occupational licenses, or marriage licenses issued by any agency or any political subdivision of the State of Tennessee on and after the effective date of this act shall contain the social security number of each applicant.

36-5-1302. Inclusion of social security numbers in certain records.

Notwithstanding any other provision of the law to the contrary, the social security number of any individual who is subject to a divorce decree, order of support issued by any court, any order of paternity or legitimation, or any voluntary acknowledgment of paternity shall be placed in the records relating to such matter.

SECTION 30. Tennessee Code Annotated, Section 36-3-104 is amended by adding the words "and social security numbers" immediately after the words "ages, addresses" in the first sentence.

SECTION 31. Tennessee Code Annotated, Section 36-4-106(b)(1) is amended by adding the words "and the social security numbers of the parties and all children born

of the marriage” after the words and punctuation “filing of the complaint,” in the first sentence.

SECTION 32. Tennessee Code Annotated, Section 68-3-401 is amended by adding the following language at the end of subsection (b):

The form for a certificate of marriage shall contain a place for the recording of the married persons’ social security numbers and such numbers shall be recorded on the certificate and on any forms necessary to prepare such certificate. Such information shall be provided in the record submitted to the office of vital records by the county clerk.

SECTION 33. Tennessee Code Annotated, Section 68-3-402 is amended by adding the following language at the end of subsection (b):

The form for a certificate of divorce shall contain a place for the recording of the divorced persons’ social security numbers and such numbers shall be recorded on the certificate and any forms necessary to prepare such certificate. Such information shall be provided in the record submitted to the office of vital records by the court clerk.

SECTION 34. Tennessee Code Annotated, Section 68-3-502 is amended by adding the following as a new subsection:

( ) The form for a certificate of death shall contain a place for the recording of the deceased’s social security number and such number shall be recorded on the certificate and on any forms necessary to prepare such certificate.

SECTION 35. Tennessee Code Annotated, Section 24-7-118 is amended by deleting the Section in its entirety and by substituting instead the following language:

(a) A voluntary acknowledgment of paternity which is completed under the provisions of §§ 68-3-203(g), 68-3-302, or 68-3-305(b) or under similar provisions of another state or government shall constitute a legal finding of paternity on the individual named as the father of the child in the acknowledgment, subject to rescission as provided in subsection (c). The acknowledgment, unless rescinded pursuant to subsection (c), shall be conclusive of that father’s paternity without further order of the court.

(b)(1) A voluntary acknowledgment of paternity which is completed under the provisions of §§ 68-3-203(g), 68-3-302, or 68-3-305(b), or under similar provisions of another state or government, when certified by the State Registrar or other governmental entity maintaining the record of the acknowledgment, or the duplicate original of the voluntary acknowledgment completed pursuant to § 68-3-302(e), shall be a basis for establishing a support order without requiring any further proceedings to establish paternity.

(2) An acknowledgment of paternity executed as described in subdivision (1) shall be entitled to full faith and credit in any judicial or administrative proceeding in this State.

(3) No judicial or administrative proceedings are required, nor shall any such proceedings be permitted, to ratify an unchallenged acknowledgment of paternity in order to create the conclusive status of the acknowledgment of paternity.

(c) A signatory to a voluntary acknowledgment shall be permitted to rescind the voluntary acknowledgment at the earlier of:

(1) The completion and submission of a sworn statement refuting the named father on a form provided by the State Registrar. This form must be filed in the office of vital records of the Department of Health together with the fee required by the Registrar within sixty (60) days of the date of completion of the acknowledgment; or

(2) Within the sixty (60) day period following completion of the acknowledgment, at any judicial or administrative proceeding during that period at which the signatory is a party and which proceeding relates to the child, by completion of the form described in subdivision (1) or by the entry of an order by the administrative or judicial tribunal which directs the rescission of such acknowledgment.

(3) The Registrar may impose a fee for the filing of the rescission of voluntary acknowledgment in subdivision (1) and the Registrar shall send a copy of the rescinded acknowledgment to the other signatory of the original acknowledgment. If an individual seeking to rescind an acknowledgment completes an affidavit of indigency which accompanies the rescission form, the fee shall be waived. Any fee for filing a rescission of a voluntary acknowledgment based upon fraud shall be assessed by the court against the person found to be the perpetrator of the fraud.

(d) If at any time during the hearing described in (c)(2), the court or administrative judge or hearing officer has reasonable cause to believe that a signatory of the acknowledgment is or was unable to understand the effects of executing such acknowledgment, the court or referee shall explain orally to the individual the effects of the execution of the acknowledgment and the right to rescind the voluntary acknowledgment pursuant to subsection (c) and the right to parentage tests to determine paternity pursuant to the provisions of § 24-7-112 in any proceeding relative to the issue of paternity of the child.

(e)(1) If the voluntary acknowledgment has not been rescinded pursuant to subsection (c), the acknowledgment may only be challenged on the basis of fraud, whether extrinsic or intrinsic, duress, or material mistake of fact.

(2) The challenger must institute the proceeding upon notice to the other signatory and other necessary parties including the Title IV-D agency within five (5) years of the execution of the acknowledgment, and if the court finds based upon the evidence presented at the hearing that there is substantial likelihood that fraud, duress, or a material mistake of fact existed in the execution of the acknowledgment of paternity, then, and only then, the court shall order parentage tests. Such action shall not be barred by the five (5) year statute of limitations where fraud in the procurement of the acknowledgment by the mother of the child is alleged and where the requested relief will not affect the interests of the child, the State, or any Title IV-D agency. Nothing herein shall preclude the challenger from presenting any other form of evidence as a substitute for the parentage tests if it is not possible to conduct such tests.

(3) The test results certified under oath by an authorized representative of an accredited laboratory shall be filed with the court and shall be admissible on the issue of paternity pursuant to § 24-7-

112(b). If the acknowledged father is found to be excluded by the tests, an action seeking support shall be dismissed or the acknowledgment of paternity shall be rescinded, as appropriate. If the test results show a statistical probability of ninety-five percent (95%) or greater, a rebuttable presumption of paternity shall be established and the issue of paternity shall be tried before the court without a jury. If the test results show a probability of paternity of ninety-nine percent (99%) or greater, the acknowledgment of paternity will become conclusive and no further action shall be necessary to establish paternity unless a motion asserting the defenses of § 24-7-112(b)(2)(C) is successfully brought.

(4) The burden of proof in any such proceeding shall be upon the challenger.

(5) During the pendency of the hearing under this subsection and any appeal from such hearing, the legal responsibilities of the signatory, including any child support obligations, may not be suspended, except for good cause shown.

(f) The State of Tennessee, its officers, employees, agents or contractors, or any Title IV-D child support enforcement agency shall not be liable in any case to compensate any person for repayment of child support paid or for any other costs as a result of the rescission of any voluntary acknowledgment or the rescission of any orders of legitimation, paternity, or support entered under this section.

(g)(1) The rescission of an acknowledgment of paternity or entry of any order rescinding any acknowledgment of paternity pursuant to subsection (c) shall not preclude the initiation of a paternity action against the signatory who is the alleged putative father, or by a putative father against a mother to establish his paternity, nor shall it preclude the initiation of a paternity action against another putative father.

(2) If, however, the voluntary acknowledgment is rescinded by order of the court based upon tests conducted pursuant to subsection (e) which excluded a person as parent, no further action may be initiated against such excluded person.

(h)(1) The original of the form rescinding the voluntary acknowledgment of paternity or a certified copy of any order rescinding a voluntary acknowledgment of paternity or a prior order of legitimation or paternity shall be sent by the person rescinding it or, as the case may be, by the clerk to the State Registrar at the Office of Vital Records of the Department of Health.

(2) Upon receipt of the form rescinding the acknowledgment which was executed and filed with the Registrar within the sixty (60) day period or upon receipt of the order which shows on its face that the voluntary acknowledgment has been rescinded at the hearing which is held no later than the sixtieth (60th) day following the completion of the voluntary acknowledgment, or upon receipt of a certified court order with a finding shown clearly in the court order that the voluntary acknowledgment of paternity was rescinded due to fraud, either intrinsic or extrinsic, duress or material mistake of fact, the Registrar shall make the appropriate amendments to the birth certificate of the child who was the subject of the order.

SECTION 36. Tennessee Code Annotated, Section 68-3-302(d) is amended by deleting subdivision (1) in its entirety and by substituting instead the following new subdivision (1):

(1) Written and oral information concerning the alternatives to, the legal consequences of, the rights, and the responsibilities arising from the completion of the voluntary acknowledgment. Such information shall be provided to the birthing institution by the Department of Human Services which shall develop such information in conjunction with the Department of Health. A videotaped or audio presentation will satisfy the requirement for the oral explanation.

SECTION 37. Tennessee Code Annotated, Section 68-3-302(e) is amended by deleting the first sentence and by substituting instead the following:

The birthing institution shall forward the original, signed acknowledgment of paternity to the Office of Vital Records, and shall send a copy to the Title IV-D child support agency where the mother resides if the mother or child is receiving temporary assistance, Medicaid/TennCare, or any successor programs.

SECTION 38. Tennessee Code Annotated, Section 68-3-302 is amended by adding the following new subsection (g):

(g) Voluntary paternity establishment services through hospitals and the Department of Health shall be offered in accordance with Federal regulations as may be prescribed by the Secretary of the United States Department of Health and Human Services.

SECTION 39. Tennessee Code Annotated, Section 68-3-203 is amended by adding the following new subsection (h):

(h) In the event a voluntary acknowledgment of paternity is rescinded and a new father is not named, the name and personal information of the originally named father shall be removed by blocking, and the child's surname shall be blocked and the legal surname of the mother at the time of the birth shall be entered as the surname of the child. In the event a voluntary acknowledgment of paternity is rescinded and a new father is named, the changes in the birth certificate shall be made in accordance with § 68-3-203(g).

SECTION 40. Tennessee Code Annotated, Section 68-3-305(b) is amended by deleting subdivision (2)(B) in its entirety and by substituting instead the following:

(B) The acknowledgment form shall be in the form of an affidavit, shall contain the social security numbers of the mother and father of the child and shall be approved by the State Registrar and the Department of Human Services. The State Registrar and the Department of Human Services shall modify the form to comply with the minimum regulations for such form which are finalized by the Secretary of the United States Department of Health and Human Services. An acknowledgment executed in conformity with this section shall be valid as long as it is executed on a form approved by the State registrar and the Department of Human Services.

SECTION 41. Tennessee Code Annotated, Section 36-5-101(n) is amended by designating the current language as subdivision (1) and by adding the following new subdivision:

(2) The State of Tennessee, its officers, employees, agents or contractors, any counties, county officials, the clerks of any court, or any Title IV-D child support enforcement agency shall not be liable in any case to compensate any person for repayment of child support paid or for any other costs as a result of the rescission pursuant to § 24-7-118 of any voluntary acknowledgment or the rescission of any orders of legitimation, paternity, or support.

SECTION 42. Tennessee Code Annotated, Section 68-3-305(b), is amended by adding the following language to the end of subdivision (2)(B):

A voluntary acknowledgment of paternity may be completed by a minor if a parent or legal guardian of the minor is present and consents at the time of completion of the acknowledgment.

SECTION 43. Tennessee Code Annotated, Section 24-7-112 is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a)(1)(A) In any contested paternity case, unless the individual is found to have good cause under Section 454(29) of the Social Security Act (42 U.S.C. 654(29)), the court, or the Department of Human Services in Title IV-D child support cases, shall order the parties and the child to submit to genetic tests to determine the child's parentage upon the request of any party if the request is supported by an affidavit of the party making the request:

(i) Alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

(ii) Denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties; or

(iii) Denying paternity.

(B) In addition, upon the court's own motion, at such times as it deems equitable, or by administrative order by the Department of Human Services in Title IV-D child support cases, tests and comparisons pursuant to this section shall be ordered.

(2) During any other civil or criminal proceeding in which the question of parentage arises, upon the motion of either party or on the court's own motion, the court shall at such time as it deems equitable order all necessary parties to submit to any tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage.

(3) In any civil or criminal proceedings pursuant to this section, the tests ordered shall be conducted by an accredited laboratory. In the case of genetic tests, and at such time as the Secretary of the United States Department of Health and Human Services designates accreditation entities which acknowledge the reliability of types of genetic tests used in the establishment of paternity, such genetic tests shall be of the type which are generally acknowledged as reliable by accreditation entities designated by the Secretary and the genetic tests shall be performed by a laboratory approved by such a designated accreditation entity.



(4) The results of such tests and comparisons which are ordered pursuant to this section, including the statistical likelihood of the alleged parent's parentage, if available, may be admitted into evidence as provided in subsection (b).

SECTION 44. Tennessee Code Annotated, Section 24-7-112(b) is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) Upon receiving the results of the tests and comparisons conducted pursuant to subsection (a), the court shall proceed as follows:

(1)(A) Either party may request an additional parentage test upon the advanced payment of the costs of the additional parentage test. If the additional tests are requested by the Department of Human Services its contractors or any state agency, the costs of such additional tests shall be paid for upon being billed for such by the testing agent and may be recovered by those entities in any parentage proceeding from the person established as parent of the child.

(B)(i) If the results of the first test exclude paternity and the second test also exclude paternity, or, if the initial test results are negative on the issue of paternity establishment and no second test is requested, this shall be conclusive evidence of non-paternity and the action shall be dismissed.

(ii) If the results of the first test establish paternity and the second test again establishes a positive statistical probability of parentage as described in subdivisions (2)(B) or (C), the positive test results with the greater positive probability of parentage shall be definitive for purposes of the application of the appropriate evidentiary standards relative to the presumptions and the defenses available in subdivision (2).

(iii) If the results of the second test are different from the first test in their outcome relative to the exclusion or establishment of paternity, the court, or the department in appropriate cases, may order a third test, or the court may make a determination between the accuracy of the previous two (2) tests for purposes of determining paternity.

(C) The results of any tests which may exclude a person as the father shall not preclude the initiation of a new paternity action involving another putative father or by a putative father against a mother to establish his paternity.

(2)(A) In any proceeding where the paternity of an individual is at issue, the written report of blood, genetic, or DNA test results by the testing agent concerning the paternity is admissible without the need for any foundation testimony or other proof of the authenticity or accuracy of the test unless a written objection is filed with the court and served upon all parties thirty (30) days prior to the date of the hearing. For purposes of this section, service shall be deemed made upon the date of mailing.

(B) A rebuttable presumption of the paternity of an individual is established by blood, genetic, or DNA testing showing a statistical probability of paternity of that individual at ninety-five percent (95%) or

greater. In such event, the case shall be tried before the court without a jury regarding the issue of paternity without the evidentiary limitations of subdivision (2)(C).

(C) When the results of blood, genetic or DNA tests show a statistical probability that a man is the father of the child in question by a statistical probability of 99% or greater, the putative father may only attempt to rebut his paternity of the child by filing a motion with the tribunal and establishing upon clear and convincing evidence one or more of only the following circumstances:

(i) the putative father had undergone a medical sterilization procedure prior to the probable period of conception, or other medical evidence demonstrates that he was medically incapable of conceiving a child during the probable period of conception;

(ii) that the putative father had no access to the child's mother during the probable period of conception;

(iii) that the putative father has, or had, an identical twin who had sexual relations with the child's mother during the probable period of conception; or

(iv) the putative father presents evidence in the form of an affidavit that another man has engaged in sexual relations with the mother of the child in question during the period of probable conception. In this case, the court shall order genetic testing of that other man in conformity with this section. The results of that genetic test must indicate that the other man has a statistical probability of paternity of ninety-five ( 95%) or greater to establish an effective defense pursuant to this subdivision.

(D)(i) If, after test results showing a statistical probability of ninety-nine (99%) or greater, the putative father is able to show by clear and convincing evidence to the court that one of the enumerated defenses in subdivision (2)(C) is present, the matter shall be set for trial before the court without a jury.

(ii) If the putative father does not raise one of the enumerated defenses in subdivision (2)(C) or does not establish by clear and convincing evidence that one of the enumerated defenses in subdivision (2)(C) is present after test results showing a statistical probability of paternity of ninety-nine (99%) or greater, the court shall, upon motion by the other party, establish that individual as the father of the child in question, and shall order child support as required by the provisions of Title 36, Chapter 5.

(E) An affidavit documenting the chain of custody of any specimen used in any test pursuant to this section is admissible to establish the chain of custody.

(3) All costs relative to the tests and comparisons under this section shall be paid initially by the party requesting such tests with the final allocation of costs awaiting the outcome of the proceedings at which time the court shall determine

the proper allocation of costs. Costs for initial tests requested by the Department of Human Services or its contractors or any other state agency shall be paid by those entities with the costs to be recovered in any parentage proceeding from the person established as parent of the child.

SECTION 45. Tennessee Code Annotated, Section 36-5-103 is amended by adding the following as a new subsection:

( ) Judgments for child support payments for each child subject to the order for child support pursuant to this part shall be enforceable without limitation as to time.

SECTION 46. Tennessee Code Annotated, Title 36, Chapter 2, Part 1 is amended by adding the following new section:

36-2-\_\_\_\_. Judgments for child support payments for each child subject to the order for child support pursuant to this part shall be enforceable without limitation as to time.

SECTION 47. Tennessee Code Annotated, Section 37-1-151 is amended by adding the following new subsection:

( ) Judgments for child support payments for each child subject to the order for child support pursuant to this part shall be enforceable without limitation as to time.

SECTION 48. Tennessee Code Annotated, Title 36, Chapter 5, Part 1 is amended by adding the following as a new, appropriately designated Section:

36-5-1\_\_\_\_. Plans for payment of child support; work requirements.--  
(a)(1) In any case in which a child is receiving assistance under a state program funded under Title IV-A of the Social Security Act, including, but not limited to, Aid to Families with Dependent Children (AFDC), or temporary assistance as provided under Title 71, and the payment of support for such child is past-due, then, upon motion of the Department of Human Services or its contractors, the court may order that an individual who owes past-due support to such a child to pay the past-due support in accordance with a plan for payment of all past-due support.

(2) The plan shall require the obligor to pay the past-due amount in full or by monthly installments which are calculated to reduce the past-due amount by a reasonable payment over a reasonable period of time. The court or the department may enforce the plan with any remedies available for the collection or enforcement of current support.

(b) The court may also order the individual who is not incapacitated and who is subject to a plan requiring payment of the past-due support for a child receiving assistance under a State program funded under Title IV-A of the Social Security Act, including, but not limited to, temporary assistance as provided under Title 71 or Aid to Families with Dependent Children (AFDC), to engage in work activities as required under § 71-3-154.

(c) For purposes of this section, the term "past-due" support shall be defined as any occasion on which the full amount of support ordered for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent the spousal support would be included for the

purposes of 42 U.S.C. 654(4), is not paid by the due date for arrears as defined in § 36-5-101(a)(5) unless an income assignment is in effect and the payor of income is paying pursuant to § 36-5-501(g).

SECTION 49. Tennessee Code Annotated, Title 36, Chapter 2, Part 1 is amended by adding the following language as a new, appropriately designated Section:

36-2-1\_\_\_. (a)(1) In any case in which a child is receiving assistance under a State program funded under Title IV-A of the Social Security Act, including, but not limited to, Aid to Families with Dependent Children (AFDC), or temporary assistance as provided under Title 71, and the payment of support for such child is past-due, then, upon motion of the Department of Human Services or its contractors, the court may order that an individual who owes past-due support to such a child to pay the past-due support in accordance with a plan for payment of all past-due support as required by Section 48 of this act.

SECTION 50. Tennessee Code Annotated, Section, 37-1-151 is amended by adding the following as a new subsection:

( ) (1) In any case in which a child is receiving assistance under a State program funded under Title IV-A of the Social Security Act, including, but not limited to, Aid to Families with Dependent Children (AFDC), or temporary assistance as provided under Title 71, and the payment of support for such child is past-due, then, upon motion of the Department of Human Services or its contractors, the court may order that an individual who owes past-due support to such a child to pay the past-due support in accordance with a plan for payment of all past-due support as required by Section 48 of this act.

SECTION 51. Tennessee Code Annotated, Section 36-5-101(a)(4)(E)(i) is amended by adding the words “and obligee” immediately after the words “will notify the obligor” in the last sentence.

SECTION 52. Tennessee Code Annotated, Section 36-5-101(a), is amended by deleting subdivision (4)(E)(ii) in its entirety and by redesignating subdivision (4)(E)(i) as subdivision (4)(E).

SECTION 53. Tennessee Code Annotated, Section 36-5-101(e) is amended by deleting subdivision (4) in its entirety.

SECTION 54. Tennessee Code Annotated, Section, 36-1-113(g) is amended by deleting subdivision (8)(A)(vi) in its entirety and by substituting instead the following:

(vi) The person has failed to file a petition to establish paternity of the child within thirty (30) days after notice of alleged paternity by the child’s mother, or as required in § 36-2-209(j), or after making a claim of paternity pursuant to § 36-1-117(c)(3).

SECTION 55. Tennessee Code Annotated, Section 36-1-116, is amended by deleting in subdivision (f)(1) the language “legitimation of the child sought by a biological father of a child pursuant to Chapter 2, Part 2 of this title.” and by substituting instead the language “establishment of paternity of a child pursuant to Chapter 2, Part 1 of this title.”

SECTION 56. Tennessee Code Annotated, Section 36-1-116 is amended by deleting the word “legitimation” in subdivision (f)(2) and by substituting instead the language “establishment of the paternity”.

SECTION 57. Tennessee Code Annotated, Section 36-1-117 is amended by deleting the word “legitimate” in subdivision (a)(2) and by substituting instead the language “establish paternity of”.

SECTION 58. Tennessee Code Annotated, Section 36-1-117 is amended by deleting subdivision (b)(1) in its entirety and by substituting instead the following:

(1) If a petition has been filed to establish paternity of the child who is the subject of the adoption proceeding, the adoption court shall have exclusive jurisdiction to hear and decide any paternity petition filed in the adoption proceeding or which has been transferred to it pursuant to Section 81 of this act.

SECTION 59. Tennessee Code Annotated, Section 36-1-117 is amended by deleting the word “legitimation” in subdivision (b)(2) and by substituting instead the word “paternity”.

SECTION 60. Tennessee Code Annotated, Section 36-1-117 is amended by deleting subdivision (b)(3)(A) and by substituting instead the following:

(A) The petition shall be granted if it is shown by a preponderance of the evidence that person alleged to be the father of the child is the father of the child; provided, that the entry of such an order shall not prevent the filing and consideration of a petition pursuant to § 36-1-113.

SECTION 61. Tennessee Code Annotated, Section 36-1-117 is amended by deleting the word “for legitimation” in subdivision (b)(3)(B) and by substituting instead the language “to establish paternity”.

SECTION 62. Tennessee Code Annotated, Section 36-1-117 is amended by deleting the language “ legitimation petition” in subdivision (b)(5) and by substituting instead the language “petition to establish paternity”.

SECTION 63. Tennessee Code Annotated, Section 36-1-117 is amended by deleting the word “legitimation” in subdivision (b)(6) and by substituting instead the word “paternity”.

SECTION 64. Tennessee Code Annotated, Section 36-1-117 is amended by deleting the language “legitimate the child or who has not legitimated the child” in the introductory paragraph of subsection (c) and by substituting instead the language “establish paternity of the child or who has not established paternity to the child”.

SECTION 65. Tennessee Code Annotated, Section 36-1-117 is amended by deleting in subdivision (c)(3) the word “legitimation” and by substituting instead the word “paternity”.

SECTION 66. Tennessee Code Annotated, Section 36-5-101(a)(5) is amended by deleting the language “If the full amount of child support is not paid by the fifth day of the month following the month in which the ordered support is due” in the third sentence and by substituting instead the language “If the full amount of child support is not paid by the date upon which the ordered support is due”.

SECTION 67. Tennessee Code Annotated, Section 37-1-151(b)(1) is amended by deleting the words “children’s services” and by substituting instead the words “human services”.

SECTION 68. Tennessee Code Annotated, Title 71, Chapter 1, Part 1 is amended by adding the following as a new section:

(a)(1) The department shall have rulemaking authority to establish any rules necessary for the administration of the child support program operated pursuant to Title IV-D of the Social Security Act and shall have rulemaking authority to establish any rules to carry out the requirements of any title or part of any title which the department administers and which are necessary to implement the provisions of the Title IV-D child support program and to effectuate any federal legislative or regulatory changes.

(2) Notwithstanding any law to the contrary, the department shall have authority upon passage of this act to promulgate any public necessity rules, following approval by the Attorney General and Reporter pursuant to § 4-5-209, to implement the provisions of this act or of any title or part of any title which the department administers and which may be necessary to implement the provisions of this act, which public necessity rules shall become effective upon the effective date of any provisions of this act if the implementation period of any provisions of this act occurs before July 1, 1998; provided, however, that the department shall promulgate permanent rules to implement the provisions of this act pursuant to a rulemaking hearing as required by Title 4, Chapter 5. Nothing in this subsection shall be construed to abrogate the ability of the department at anytime to utilize the provisions for implementing public necessity or emergency rules as otherwise permitted by the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(b) Notwithstanding any other state law to the contrary, the department shall have the authority to immediately implement any federal legislative or regulatory changes by public necessity rules following approval by the Attorney General and Reporter pursuant to § 4-5-209 if such federal legislative or regulatory changes occur before July 1, 1998; provided, however, that permanent rules shall be promulgated pursuant to the provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. Nothing in this subsection shall be construed to abrogate the ability of the department at anytime to utilize the provisions for implementing public necessity or emergency rules as otherwise permitted by the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(c) Notwithstanding any other law to the contrary, any forms mandated by the Secretary of the United States Department of Health and Human Services which are required to be utilized by the Department of Human Services in any aspect of the Title IV-D child support program administered by the department shall be implemented immediately by public necessity rule of the department following approval by the Attorney General and Reporter pursuant to § 4-5-209, and shall, in all respects, immediately supersede any forms in use at the time the department implements the use of such federal forms by public necessity rule. Any requirements of the laws or regulations of this State which are inconsistent with the language or procedures established by such federal forms shall be subordinate to the requirements imposed by such federal forms.

(d) Prior to the filing of a notice of rulemaking for permanent rules pursuant to this section, the rules shall be sent by the department for review by an advisory group composed of two (2) representatives of the State Court Clerks' Conference appointed by the president of the State Court Clerks' Association, two (2) representatives of the Judges of Courts which have child support

responsibilities one of whom will be appointed by the Chief Justice of the Supreme Court and one of whom will be appointed by the President of the Council of Juvenile and Family Court Judges a representative of the Administrative Office of the Courts, and two (2) representatives of the Department of Human Services designated by the commissioner. Nothing contained herein shall be construed to prevent the department from filing any notice of rulemaking prior to or at the time the proposed permanent rules are sent to the advisory group where the department determines that immediate filing of the notice without prior review by the advisory group is necessary to meet any requirements relative to the potential expiration of public necessity or emergency rules or to comply with any federal statutory or regulatory requirements or any federal policy directives, nor shall the requirement of this subsection be construed to supersede any requirements of subsection (c).

SECTION 69. Title 36, Chapter 5, Part 1 is amended by adding the following as a new section:

36-5-1\_\_\_. Court clerks coordinating council; approval of plan for collections and disbursements; contract for collection and distribution of support by clerks --

(a)(1) There shall be created a court clerks child support coordinating council, the purposes of which shall be:

(A) to study the impact of the provisions of Section 312 of Title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 654B(a)(3)) as it affects the collection and distribution of child support by the Clerks of Court in order to determine the most appropriate manner by which the clerks may continue their role in the collection and distribution of child support in compliance with 42 U.S.C. 654B and any implementing regulations, and;

(B) to propose solutions for the purposes of subdivision (1)(A) and to implement any suitable arrangement for the continuance of such role as provided herein.

(b) The council shall consist of a Juvenile Court Clerk, a Clerk and Master, and a Circuit Court Clerk who are appointed by the President of the State Court Clerks Conference; a representative of the Tennessee Bankers Association; a representative of the Tennessee Association of Business; the Comptroller of the Treasury or designee; the Director of the Administrative Office of the Courts, or designee; and the Commissioner of the Department of Human Services, or designee.

(c) All members of the council shall serve without compensation, but shall be reimbursed by the State Court Clerks Conference for travel, meals and lodging at the same rates approved for State travel by the Commissioner of Finance and Administration and approved by the Attorney General and Reporter.

(d)(1) If a plan for the continued involvement of the Court Clerks in the collection and distribution of child support pursuant to the provisions of 42 U.S.C. 654B is approved by the United States Department of Health and Human Services, the Court Clerks Conference may contract with a single Court Clerk, a group of clerks or with one or more financial institutions to establish procedures for the collection and distribution of child and spousal support and to provide one central location to which employers shall transmit income withholding of child or

spousal support obligations, whether by electronic funds transfer or otherwise, pursuant to 42 U.S.C. 654B.

(2) Clerks' fees permitted by statute for the collection of support pursuant to such contract may be apportioned by the State Court Clerks Conference among the members of the Conference who elect to participate in such contract.

(e) The contract terms shall be approved by the coordinating council and by the Attorney General and Reporter, and shall require that the contractor operate the collection and distribution of child or spousal support under all applicable provisions Title IV-D of the Social Security Act (42 U.S.C. 651 et seq.) and its implementing regulations and pursuant to any requirements of State law or regulations relative to the collection or distribution of support.

(f) The costs of such a contract and the costs associated with developing, implementing, and operating the central payment location or locations, including, but not limited to any modifications to any computer systems operated by the Court clerks or by the Department of Human Services or any agency of the State and all costs of conversion of data, shall be paid by the Court Clerks. All liability pursuant to the contract shall be assumed by the State Court Clerks Conference. The State of Tennessee and its agencies, officers and employees shall have no liability under such contract.

(g) All provisions which relate to the confidentiality of child support records pursuant to any provision of State or Federal law or regulation shall apply to the records in the control and possession of the contractor.

(h)(1) The plan for operation of the disbursement unit must be approved by the United States Department of Health and Human Services at least nine (9) months prior to the required Federal implementation date or any extensions of such date.

(2) If approval is received, the disbursement unit process as authorized by this section must be operational no later than the required Federal implementation date.

SECTION 70. The department, local agencies and their contractors and agents shall comply with the provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. in administering the provisions of this act.

SECTION 71. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 72. Section 1 of this act shall become effective for purposes of promulgating rules and regulations upon this act becoming a law, and shall otherwise become effective for all other purposes on October 1, 1997, the public welfare requiring it. Section 2 and Section 3 of this act shall become effective on January 1, 1998, the public welfare requiring it. Sections 4 through 67 of this act shall become effective on July 1, 1997, the public welfare requiring it. Section 68, Section 69 and Section 71 of this act shall become effective upon becoming a law, the public welfare requiring it.